



Request for Qualifications (RFQ) #F23-7013-39A

Kansas City Area Transportation Authority (KCATA)
Construction Administration, Testing, and Inspection Services
for Kansas City Streetcar Riverfront Extension Construction (Package 5)

Date: November 30, 2023

Contact: Denise Adams
Procurement Manager

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November 30, 2023

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Construction Administration, Testing, and Inspection Services
for Kansas City Streetcar Riverfront Extension Construction (Package 5)

The Kansas City Area Transportation Authority (KCATA) is seeking proposals from qualified firms to perform construction administration, testing, and inspection services during construction of the Kansas City Streetcar's Riverfront Extension. This project is anticipated to be completed by Summer 2026.

Project Diversity Goal. This project is funded in part with Federal Transit Administration (FTA) grants. **There is a 30% Disadvantaged Business Enterprise (DBE) goal established for this project.** DBE firms are encouraged to submit proposals as prime contractors, joint ventures, or subcontractors. See Section 3.11 for more information on KCATA's policy regarding KCATA's diversity programs.

Pre-Proposal Questions. Questions (technical, contractual, or administrative) must be directed in writing via email only to Denise Adams at dadams@kcata.org. Questions and requests for clarifications will be received until **2:00 p.m. on December 7, 2023**. If required, KCATA's response to these submissions will be in the form of an Addendum.

Proposal Submissions. Proposals must be received with all required submittals (See Section 4) as stated in the RFQ **no later than 2:00 p.m. CT on December 21, 2023**.

Proposals shall be submitted as follows:

Project Name	KCATA Construction Administration, Testing & Inspection Services
Project Number	F23-7013-39A
Site URL	https://kcata.sharepoint.com/sites/FTP/pro/catis/SitePages/Home.aspx
Bidder Email	Bid_F23-7013-39A@kcata.org
Bidder Password	hZySyh@5Q (hotel - ZULU - yankee - SIERRA - yankee - hotel - At - Five - QUEBEC - JULIET)

NOTE: This site is *not* compatible with Firefox or Safari browsers. After accessing the SharePoint site, you must type in the email address that is provided above (not your own) – you cannot use the hyperlink. Please note the “underscore” in the email. The complete password is comprised of the highlighted portion above.

Proposals received after the time specified shall not be considered for award. Proposals received via facsimile (fax), or electronic mail (e-mail) shall not be considered. Proposals not meeting specified delivery and method of submittal will not be opened nor considered responsive.

Submission of a proposal shall constitute a firm offer to the KCATA for one hundred twenty (120) days from the date of closing. This RFQ does not commit the KCATA to award a contract, to pay any cost incurred in preparation of a proposal, or to procure or contract for services. Proposer shall read and understand the requirements of this proposal 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 proposals received, to interview or negotiate with any qualified individual or firm, to modify this request, or cancel in part or in its entirety the RFQ if it is the best interest of the KCATA.

Evaluations/Awards. Following an initial review and screening of all timely and responsive proposals, highly qualified Proposers may be invited to interviews as necessary at their own expense. Those selected Proposers will be informed as to exact date and time if invited for interviews and discussion. Proposers may also be required to submit written responses to

questions regarding their proposals. All contractual agreements are subject to final approval by the Kansas City Area Transportation Authority's Board of Commissioners.

Restricted Communications. No person or entity submitting a proposal in response to this Request for Qualifications nor any officer, employee, agent, representative, relative or consultant representing such a person (or entity) may contact through any means, or engage in any discussion concerning the award of this contract with any member of KCATA's Board of Commissioners or any employee of KCATA (excluding Procurement staff) during the period beginning on the date of proposal issue and ending on the date of the selection of a Contractor. Any such contact would be grounds for disqualification of the Proposer.

Kristen Emmendorfer
Director of Procurement

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NO PROPOSAL REPLY FORM

Request for Qualifications (RFQ) #F23-7013-39A
KCATA Construction Administration, Testing, and Inspection Services
for Kansas City Streetcar Riverfront Extension Construction (Package 5)

To assist KCATA in obtaining good competition on its Requests for Qualifications we ask that if you received an invitation but do not wish to propose, please state the reason(s) below and return this form to Denise Adams, KCATA's Procurement Department, via email at dadams@kcata.org. This form may also be mailed to 1350 East 17th Street, Kansas City, MO, 64108, or faxed to 816-346-0224.

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

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

- ___ 1. We do not wish to participate in the proposal process.
- ___ 2. We do not wish to propose under the terms and conditions of the Request for Proposal document. Our objections are:

- ___ 3. We do not feel we can be competitive.
- ___ 4. We do not provide the services on which proposals are requested.
- ___ 5. Other: _____

___ We wish to remain on the Proposer's list for these services.

___ We wish to be removed from the Proposer's list for these services.

FIRM NAME

SIGNATURE

**SECTION 1
PROPOSAL CALENDAR**

RFQ Advertised and Issued.....	November 30, 2023
Questions, Comments and Requests for Clarifications Due to KCATA	December 7, 2023 2:00 p.m. Central
KCATA’s Response to Questions, Comments and Requests for Clarification	December 12, 2023
RFQ Closing.....	December 21, 2023 2:00 p.m. Central
Evaluations/Interviews (Tentative and if Required).....	January 8-12, 2024
Contract Award/Notice to Proceed (Anticipated)	February 2024

SECTION 2
SCOPE OF SERVICES

2.1 Project Description

- A. The general scope of work for this proposal includes demonstrating and exemplifying experience in managing and reporting to project owners detailed, accurate accounting of new complete construction mandated documentation by KCATA and the Federal Transit Administration (FTA), daily site progress, conditions, and potential issues. Specifically, the Consultant will be performing these services for the 0.75-mile extension of the Kansas City Streetcar in Kansas City, Missouri.
- B. The estimated level of staff required for this Scope of Services is
1. Resident Engineer (full time) = 1
 2. Assistant Resident Engineer and Principal Field Inspector (full time) = 1
 3. Field Inspectors (part-time and as needed): 1 to 3
 - a. One part-time Trackway and Station inspector
 - b. One part-time (as needed) inspector for Overhead Catenary Systems (OCS) and Traction Power Substations (TPSS)
 - c. Additional stand-by inspectors available on an as-needed basis
 4. Office Manager / Engineer (part time): 1
 5. Document Control Specialist (part time): 1
 6. Special Material Testing (part time): 1
 7. Specification Conformance for Safety and Security Certification and Integrated Testing (part time): 1
- C. **Project Structure and Schedule.** The general structure and anticipated schedule for the Streetcar Riverfront Extension is outlined below.
1. The complete project consists of multiple contracts and agreements. The project management structure for the RFE project is led by the Kansas City Area Transportation Authority (KCATA) as the project lead and federal funding sponsor. The City of Kansas City, Missouri (KCMO) Public Works Dept is the project partner and will be the owner of the completed project. The Kansas City Streetcar Authority (KCSA) is a project Partner, the Streetcar operations, and maintenance provider.
 2. Early procurement packages have been issued for the 112 Tram Rail, Special Trackwork, 112 Tram Rail Expansion Joints, and the TPSS substation. These material packages will be incorporated into the work performed by the primary construction contractor.
 3. Bids for the primary construction project will be issued in Mid-March 2023 with an estimated construction NTP in the summer of 2023. This bid is anticipated to be awarded to the best qualified bidder as determined by KCATA.
 4. Construction Administration (CA) services NTP is currently anticipated in the 2nd quarter of 2023 with an anticipated completion in 2025. Project closeout and Integrated Testing, needing Resident Engineer

participation is anticipated through Early 2026.

D. Construction Administration Roles and Responsibilities:

1. Daily construction inspection and documentation.
2. Daily construction administration and coordination with the selected primary construction Contractor, KCATA, KCSA, City of Kansas City, Port KC, FTA, UPRR and BNSF Railroads, MoDOT and affected business and property owners.
3. Post construction activities to determine that the project is completed and accepted by the project partners including documentation required by FTA for final project approval.
4. Consultant will be located out of the construction field office.
5. Consultant will be providing a vehicle and equipment for their employees.
6. Consultant shall provide a tester for QA testing on track welds.
7. Consultant shall provide a tester for QA inspections of TPSS and rail switches and rail production at manufacturing locations.
8. Consultant shall provide document control specialist which will manage the RFI processing and office documentation for KCATA. Experience with streetcar rail is preferred.
9. Consultant shall provide a Resident Engineer to supplement the KCATA's Project Manager and assistant representatives to supplement representatives from the project partners.
10. The assistant representatives will need to have experience on rail projects with streetcar rail experience preferred.
11. Resident Engineer will be inspecting a project greater than \$10 million dollars in construction value as the lead representative.
12. The Resident Engineer will have experience on rail projects with streetcar rail experience preferred.
13. It is also preferred that the Resident Engineer will also have experience working with high voltage projects.
14. Consultant shall provide a staff member that has experience in generating monthly and quarterly FTA project reports and of performing Independent Cost Estimates (ICE's) for change order items on rail projects with streetcar rail experience preferred.
15. Consultant shall provide a staff member that has experience in inspecting safety related elements of large-scale projects and will assist the project representatives in the field review and inspection of the CILS in the Safety and Security Checklist as described in the FTA Handbook for Transit Safety and Security Certification.
16. Consultant shall provide staff members with experience in conducting Integrated Testing on Street Running rail systems and assist the Contractor, Owner, and the City in conducting Integrated Testing on the new and modified portions of the alignment as described in the FTA Handbook for Transit Safety and Security Certification.
17. KCATA reserves the right to utilize different positions to fill the requirements of this work.

2.02 Project Tasks

A. Task 1: Contract Administration.

1. Take responsibility for the daily administration of the project construction documentation, inspections, and QA testing.
2. Work with the Project's Communications Team and assist with public communications as requested with businesses, property owners, general public and KCATA. This will include documenting and processing complaints with the Communications Team from businesses and property owners by utilizing a formal complaint process.
3. Schedule and administer a weekly construction progress meeting. It is anticipated that one meeting per week for the duration of the project will be needed.
4. Daily construction administration and coordination with the City, Contractor(s), MoDOT, KCATA, FTA and affected business and property owners
5. Consultant shall monitor the Construction Contractor and all related subcontractors for the Work Force Compliance and FTA compliance.
6. Consultant shall assist KCATA in the oversight and monitoring of the Construction Contractor and all related sub-contractors for the DBE compliance.
7. Meet with the Contractor and KCATA monthly to review, prepare and submit intermediate monthly pay estimates including all required KCATA and FTA compliance supporting documents.
8. Meet with representatives of granting agencies for project update.
9. Determine whether or not the contractor is generally adhering to the FTA grant requirements through on-going field observations and document review, including detailed field verification of Buy America compliance on all materials, equipment ,and products. FTA/Buy America compliance verification shall be documented and submitted monthly.
10. Keep, maintain, and review certified payroll reports for prime and subcontractors on jobsite. Provide bi-weekly labor interviews on project required documentation. Review and track labor classes and the prevailing wage of the labor interviews. Fill out the FTA man hour breakdown monthly and other paperwork as required.
11. Keep, maintain, and review the FTA man hour breakdown monthly for the contractor and subcontractors.
12. Prepare and distribute change orders and submittals to the KCATA with recommendations for processing and approval.
13. Perform cost analyses in conjunction with review and approval of change orders and contract amendments/modifications.
14. Assist the project representatives in management of the Certifiable Items List (CILS) in the Safety and Security Checklist.
15. Maintain records of Integrated Testing and assist the Contractor, Owner, and the City in conducting Integrated Testing on the new and modified portions of the alignment
16. Collection of all warranty documentation, O&M manuals, product, and equipment documentation. Provide electronic files of all Project documentation to KCATA, KCMO and KCSA.

17. Records Management and Retention in compliance with Federal, State and City requirements.
18. Complete and submit to the KCATA the final paperwork required by the contract documents.
 - a. Review the final pay estimate and the final change order and submit it to KCATA.
 - b. Coordinate completion and collection of KCATA and FTA compliance documents.
 - c. Coordinate collection of all final pertinent documentation required.
19. Prepare final closeout report documenting that the project is completed and accepted by the KCATA along with all pertinent documentation.
20. Transfer of records to appropriate entities for retention.

B. Task 2: Field Observation -- Observation and Documentation for the Above Referenced Project.

1. Assure that all tests are performed according to the Contract documents.
2. Provide daily oversight of the project's traffic control and detour signage. This task will also include reviews of nighttime traffic control set-ups and nighttime reviews (drive-throughs) of major traffic control phase changes.
3. Be on-site when the contractor is working on contract items that require inspection as designated in the Contract documents. It is anticipated that this will include work on items for contract pay and any subsidiary item to that line item.
4. Compile a Daily Observation Report that documents the contractor's construction activity, contractor's personnel and equipment utilized. This information will be entered into the designated project management system.
 - a. Document any irregular activities including but not limited to the compliance issues of Contractor and subcontractors or workforce and report findings to KCATA Project Manager.
5. Forward Contractor requests for interpretation or clarification on the intent of the plans and/or specifications to KCATA for their review and response. Coordinate with KCATA, the communication of this response to the prime contractor.
6. Keep and maintain project files of the contractor's certifications of materials incorporated into the project and shop drawings. KCATA will approve all material certifications prior to their incorporation into the project. Inspectors shall have access to and utilize all current plans, specifications, and approved shop drawings while in the field.
7. Determine whether or not the contractor is generally adhering to the specifications and plan documents through on-going observations.
8. Prepare a report to KCATA, giving opinions and suggestions based on the observations regarding defects or deficiencies in the contractor's work and compliance with plans, specifications, and design concepts.
9. Advise KCATA and the contractor or its superintendent immediately of the commencement of any work requiring a shop drawing submission if the submission has not been accepted by the design professional or KCATA.
10. Provide transportation, equipment, tools, and incidentals as necessary to perform construction site monitoring services.

11. Compile an email daily of the contractor's construction activity, contractor's personnel and equipment utilized and attach three pictures of the activity by 8:00 am the following day.
12. Assist in the inspection of safety related elements and assist the project representatives in the field review and inspection of the CILS in the Safety and Security Checklist.
13. Assist the Contractor, Owner, and the City in conducting Integrated Testing on the new and modified portions of the alignment.
14. Attend final walk-through of each project. Compile notes and distribute the final punch list to the prime contractor and to KCATA.
15. Prior to the final walk-through, submit to the Contractor a list of items observed to require completion or correction.
16. Attend final close out meetings as required with KCATA, KCSA, FTA or other stakeholders.

**SECTION 3
PROPOSAL INSTRUCTIONS**

3.1 General Information

- A. The terms “solicitation” and “Request for Qualifications” and “RFQ” are used interchangeably, and the terms “offer”, and “proposal” are used interchangeably. The terms “Proposer,” “Contractor” and “Offeror” are also used interchangeably.
- B. In cases where communication is required between Proposers and the KCATA, such as requests for information, instruction, and clarification of specifications, such communication shall be forwarded in writing directly to Denise Adams at dadams@kcata.org by the indicated deadline. The subject line of electronic communications must reference the RFQ number and title.
- C. Submitting a proposal constitutes a firm offer to KCATA for one hundred twenty (120) days from the closing date.
- D. KCATA is not responsible for any cost or expense that may be incurred by the Proposer before the execution of a contract, including costs associated with preparing a proposal or interviews.

3.2 Proposal Submissions

- A. Proposals must be received with all required submittals (See Section 4) as stated in the RFQ **no later than 2:00 p.m. CT on December 21, 2023**. Proposals received after the time specified may not be considered for award.
- B. Proposals shall be submitted electronically through a secure FTP site as follows:

Project Name	KCATA Construction Administration, Testing & Inspection Services
Project Number	F23-7013-39A
Site URL	https://kcata.sharepoint.com/sites/FTP/pro/catis/SitePages/Home.aspx
Bidder Email	Bid_F23-7013-39A@kcata.org
Bidder Password	hZySyh@5QJ (hotel - ZULU - yankee - SIERRA - yankee - hotel - At - Five - QUEBEC - JULIET)

- C. This site is not compatible with Firefox or Safari browsers. After accessing the SharePoint site, and when prompted, you must type in the email address that is provided (not your own) – you cannot use the hyperlink. Please note the “underscore” in the email. The complete password is comprised of the highlighted portion above.
- D. Proposals received via facsimile (fax), or electronic mail (email) will not be considered.

3.3 Reservations

- A. KCATA reserves the right to waive informalities or irregularities in proposals, to accept or reject any or all proposals, to cancel this RFQ in part or in its entirety, and to re-advertise the RFQ if it is in the best interest of the Authority. KCATA shall be the sole judge of what is in its best interest with respect to this RFQ.
- B. KCATA reserves the right to make multiple awards if it is in the best interest of the Authority.
- C. KCATA also reserves the right to award a contract solely on the basis of the initial proposal without interviews or negotiations. Therefore, offers should be submitted to KCATA on the most favorable terms possible, from a technical standpoint.

3.4 Proposer's Responsibilities

- A. By submitting a proposal, the Proposer represents that:
1. The Proposer has read and understands the RFQ and the proposal is made in accordance with the RFQ requirements and instructions;
 2. The Proposer possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to KCATA; and
 3. It is authorized to conduct business in the State of Missouri.
- B. Before submitting a proposal, the Proposer should make all investigations and examinations necessary to ascertain site or other conditions and requirements affecting the full performance of the contract.

3.5 Authorization to Propose

If an individual doing business under a fictitious name makes the proposal, the proposal should so state. If the proposal is made by a partnership, the full names and addresses of all members of the partnership must be given and one principal member should sign the proposal. If a corporation makes the proposal, an authorized officer should sign the proposal in the corporate name. If the proposal is made by a joint venture, the full names and addresses of all members of the joint venture should be given and one authorized member should sign the proposal.

3.6 Withdrawal & Incomplete Proposals

- A. Proposals may be withdrawn upon written request received by KCATA before proposal closing. Withdrawal of a proposal does not prejudice the right of the Proposer to submit a new proposal, provided the new proposal is received before the closing date.
- B. Incomplete proposals may render the proposal non-responsive.

3.7 Modification of Proposals

Any proposal modifications or revisions received after the time specified for proposal closing may not be considered.

3.8 Protests

- A. The following protest procedures will be employed for this procurement. For the purposes of these procedures, "days" shall mean business days of KCATA administrative personnel which are days other than a Saturday, Sunday or legal holiday observed by KCATA for such administrative personnel.
1. **Pre-Submittal.** A pre-submittal protest is received prior to the proposal due date. Pre-submittal protests must be received by the Authority, in writing and addressed to KCATA's Director of Procurement, no later than five (5) days before the bid closing date.
 2. **Post-Submittal/Pre-Award.** A post-submittal/pre-award protest is a protest against 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's Director of Procurement, no later than five (5) days after the bid closing date.
 3. **Post-Award.** Post-Award protests must be received by the Authority, in writing and addressed to KCATA's Director of Procurement, no later than five (5) days after the date of the Notice of Intent to Award.
- B. KCATA's Director of Procurement shall respond in writing within five (5) days from the date of the written request. If the protester is not satisfied with the response of the Director of Procurement, the protester may appeal in writing to

KCATA's Chief Financial Officer within five (5) days from the date of the Director of Procurement's response.

- C. The Chief Financial Officer will decide if the protest and the appeal (if any) have been given fair and reasonable consideration, or if additional consideration is warranted. The Chief Financial Officer's response will be provided within ten (10) days after receipt of the request. The Chief Financial Officer's decision is final and no further action on the protest shall be taken by the KCATA.
- D. By written notice to all parties, KCATA's Director of Procurement may extend the time provided for each step of the protest procedures, extend the date of notice of award, or postpone the award of a contract if deemed appropriate for protest resolution.
- E. Protesters shall be aware of the Federal Transit Administration's (FTA) protest procedures with the FTA Regional Office (ref: FTA Circular 4220.1F) If federal funding is involved, FTA will review protests from a third party only when: 1) a grantee does not have a written protest procedure or fails to follow its procedure or fails to review a complaint or protest; or 2) violations of specific federal laws or regulations have occurred.
- F. An appeal to FTA must be received by FTA's regional office within five (5) working days of the date the protester learned or should have learned of KCATA's decision. Protests shall be addressed to: Regional Administrator, FTA Region 7, 901 Locust, Room 404, Kansas City, Missouri, 64106.

3.9 Disclosure of Proprietary Information.

- A. A proposer may restrict the disclosure of scientific and technological innovations in which it has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in the proposal by:
 - 1. marking each page of each such document prominently in at least 16-point font with the words "Proprietary Information;"
 - 2. printing each page of each such document on a different color paper than the paper on which the remainder of the proposal is printed; and
 - 3. segregating each page of each such document in a sealed envelope, which shall prominently display, on the outside, the words "Proprietary Information" in at least 16-point font, along with the name and address of the Proposer.
- B. After either a contract is executed pursuant to this RFQ, or all proposals are rejected, the proposals will be considered public records open for inspection. If access to documents marked "Proprietary Information," as provided above, is requested under the Missouri Sunshine Law, Section 610 of the Revised Statutes of Missouri, the KCATA will notify the Proposer of the request and the Proposer shall have the burden to establish that such documents are exempt from disclosure under the law. Notwithstanding the foregoing, in response to a formal request for information, the KCATA reserves the right to release any documents if the KCATA determines that such information is a public record pursuant to the Missouri Sunshine Law.

3.10 Diversity Business Enterprise Requirements

- A. It is the policy of KCATA that Disadvantaged (DBE), Small (SBE), Minority (MBE), Woman (WBE), and Small Local (SLBE) Owned Business Enterprises have an equal opportunity to participate in the competitive solicitation process and contract awards, and diverse firms are encouraged to submit proposals as prime contractors, joint ventures, or subcontractors.
- B. KCATA's diversity programs are subject to the requirements of 49 CFR Part 26, and it is KCATA's policy to:
 - 1. Ensure nondiscrimination in the award and administration of contracts;
 - 2. Create a level playing field on which diverse firms can compete fairly for DOT-assisted contracts;

3. Ensure that KCATA's diversity programs are narrowly tailored in accordance with applicable law;
 4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility are permitted to participate in the programs;
 5. Help remove barriers to the participation of diverse firms in contracts;
 6. To promote the use of diverse firms in all types of contracts and procurement activities; and
 7. Assist in the development of firms that can compete successfully in the marketplace outside the diversity programs.
- C. Funding for projects under these contracts may be funded in part by the federal agencies (i.e., Federal Transit Administration (FTA), Federal Emergency Management Administration (FEMA)), or may be a combination of funds appropriated by the state, county, or city governments. *Federally funded projects will be subject to DBE and SBE requirements. For projects funded by other sources, MBE, WBE or SLBE requirements will apply.*
- D. ***This project is federally funded. A Disadvantaged Business Enterprise (DBE) goal of 30% has been established.***
- E. **Non-discrimination.** Proposers shall not discriminate on the basis of race, color, creed, age, sex, sexual orientation, gender identity, national origin, or disability in the performance of this project. The Proposer shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the Proposer to carry out these requirements is a material breach of the resulting contract, which may result in the termination of the contract or such other remedy as KCATA deems appropriate.
- F. **Recognized Certifications.**
1. Disadvantaged Business Enterprises (DBEs) and Small Business Enterprises (SBEs). These programs apply to federally funded projects. KCATA will only recognize firms that are certified as DBEs/SBEs under the DOT guidelines found in 49 CFR Part 26. Firms must be certified as a DBE/SBE by a member of the Missouri Regional Certification Committee, which includes KCMO, MoDOT, City of St. Louis, Metro in St. Louis or KCATA, or through the Kansas Department of Transportation's (KDOT) DBE Program. A list of certified firms may be found at <https://www.modot.org/mrcc-directory> located on MoDOT's website. A directory of KDOT certified firms may be found at <https://kdotapp.ksdot.org/dbcontractorlist/>. MBE and WBE certifications from other agencies will not be counted toward DBE/SBE participation.
 2. Minority Owned Business Enterprises (MBEs), Woman Owned Business Enterprises (WBEs) and Small Local Business Enterprises (SLBEs). These programs apply to non-federally funded projects. MBE/WBE firms may participate as prime contractors, subcontractors, or suppliers. KCATA will only recognize firms that are certified as MBEs/WBEs under the MBE/WBE Criteria based on 49 C.F.R. (Code of Federal Regulations) Part 26, Subpart D Firms (§26.61 through §26.73) where applicable, and Subpart E (§26.81 through §26.87) where applicable. Only firms certified with **KCATA, City of Kansas City, MO, State of Missouri Office of Equal Opportunity, or Kansas Department of Commerce** will be considered eligible to meet KCATA's MBE/WBE project goals. Each firm's signed MBE or WBE certificate will need to be included in their bid package to be considered for MBE or WBE goal participation. A list of certified firms from each agency is listed below:
 - KCATA Certified Vendors <https://kcata.diversitycompliance.com/>
 - City of Kansas City, MO Certified Vendors <https://kcmohrd.mwdbecom/>
 - Missouri Office of Equal Opportunity Certified Vendors <https://apps1.mo.gov/MWBCertifiedFirms/>
 - Kansas Department of Commerce Certified Vendors <http://mwbd.com/>
 3. When appropriate, KCATA's projects may be set-aside for Small Business Enterprises or Small Local Business Enterprises.
- G. **Diverse Participation Credit.** Diverse firms may participate as Prime Contractors, Subcontractors, or Suppliers. The following shall be credited towards achieving the goals, except as provided herein:

1. The total contract dollar amount that a qualified diverse Prime Contractor earns for that portion of work on the contract that is performed by its own workforce, is performed in a category in which the Prime is currently certified and is a commercially useful function as defined by the Program.
2. The total contract dollar amount that a Prime Contractor has paid or is obligated to pay to a subcontractor that is a qualified diverse firm; and
3. Subcontractor participation with a lower tier diverse subcontractor; and
4. Sixty percent (60%) of the total dollar amount paid or to be paid by a Prime Contractor to obtain supplies or goods from a supplier who is not a manufacturer and who is qualified as a diverse firm. If the diverse firm is a manufacturer of the supplies, then one hundred percent (100%) may be credited, to be determined on a case-by-case basis.
5. NO CREDIT, however, will be given for the following:
 - a. Participation in a contract by a diverse firm that does not perform a commercially useful function as defined by the Program; and
 - b. Any portion of the value of the contract that a diverse Subcontractor subcontracts back to the prime contractor or any other contractor who is not qualified as a diverse firm; and
 - c. Materials and supplies used on the contract, unless the diverse firm is responsible for negotiating the price, determining quality and quantity, ordering materials, installing (where applicable), and paying for the material itself; and
 - d. Work performed by a diverse firm in a scope of work other than that in which the firm is currently certified.
6. **Good Faith Efforts.** Failure to meet the contracted diversity participation commitment without documented evidence of good faith efforts may result in termination of the contract.
 - a. In evaluating good faith efforts, KCATA will consider whether the Proposer has performed the following, along with any other relevant factors:
 1. Soliciting through all reasonable and available means (e.g., attendance at pre-proposal conferences, advertising, and/or written notices) the interest of all certified diverse firms who have the capability to perform the work of the contract. The Proposer must solicit this interest within sufficient time to allow the qualified firms to respond to the solicitation. The Proposer must determine with certainty if the firms are interested by taking appropriate steps to follow up on initial solicitations. Copies of the solicitation efforts (dated facsimiles, advertisements, emails) must be submitted.
 2. Selecting portions of the work to be performed by diverse firms in order to increase the likelihood that the diversity goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate diversity participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
 3. Providing interested diverse firms with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 4. Negotiating in good faith with interested firms.

5. It is the Proposer's responsibility to make a portion of the work available to diverse subcontractors and suppliers and to select those portions of the work or material needs consistent with the available diverse subcontractors and suppliers, so as to facilitate diverse participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of diverse firms that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for diverse firms to perform the work.
 6. A Proposer using good business judgment would consider a number of factors in negotiating with subcontractors, include diverse subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using diverse firms is not in itself sufficient reason for a Proposer's failure to meet the contract diversity goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good-faith efforts. Prime contractors are not, however, required to accept higher quotes from diverse firms if the price difference is excessive or unreasonable.
 7. Not rejecting diverse firms as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
 8. Making efforts to assist interested diverse firms in obtaining bonding, lines of credit, or insurance as required by the KCATA or contractor.
 9. Making efforts to assist interested diverse firms in obtaining necessary equipment, supplies, materials, or related assistance or services.
 10. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to assist in the recruitment and placement of diverse firms.
 11. In determining if the Contractor did use good faith efforts in securing participation by qualified diverse firms, KCATA may request copies of each subcontractor quote (diverse and non-diverse) in the event a non-diverse subcontractor was selected over a diverse for work on the contract.
7. **Request for Modification, Replacement or Termination of Disadvantaged Business Enterprise (DBE) Project Participation.** Contractor is responsible for meeting or exceeding the DBE commitment it has proposed for the project and as amended by any previously approved Request for DBE Modification/Substitution. Any change orders or amendment modifying the amount Contractor is to be compensated will impact the amount of compensation due to DBEs for purposes of meeting or exceeding the Proposer commitment. Contractor shall consider the effect of a Change Order or amendment and submit a Request for Modification/Substitution if the DBE commitment changes.
- a. **Termination Only for Cause** - Once the contract has been awarded; Contractor may not terminate a DBE subcontractor without KCATA's prior written consent. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
 - b. **Good Cause** - Good cause includes the following circumstances:

- 1) The listed DBE subcontractor fails or refuses to execute a written contract; or
 - 2) The listed DBE subcontractor fails or refuses to perform the work of its normal industry standards. Provided, however, that the good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor; or
 - 3) The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
 - 4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
 - 5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law; or
 - 6) The DBE subcontractor is not a responsible contractor; or
 - 7) The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
 - 8) The listed DBE is ineligible to receive DBE credit for the type of work required;
 - 9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
 - 10) Other documented good cause that compels KCATA to terminate the DBE subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the Prime Contractor can substitute another DBE or non-DBE contractor.
- c. Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to KCATA, of its intent to request to terminate and/or substitute, and the reason for the request.
- d. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise 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.

SECTION 4.
PROPOSAL SUBMISSION, EVALUATION AND AWARD

4.1 Introduction

The intent of the RFQ is to encourage submittals that clearly communicate the consultants' qualifications for the Project. Proposals should provide information in a concise, and well-written, well-organized manner containing only information relevant to this Project. All proposals should follow the format specified below as this will assist the evaluation committee in determining the most highly qualified consultant team. Firms are encouraged to submit only proposal material that is relative to the consultant services and scope cited. Including extra marketing materials and publications is discouraged.

4.2 Proposal Format

- A. Volumes shall be submitted in the following order:
- Volume 1: Technical Proposal
 - Volume 2: Contractual Documents
- B. Proposers shall submit each Volume as a separate document in .pdf format. Name each volume: F23-7013-39A – Company Name – Volume #”.
- C. Proposers will submit proposals using the secure FTP site provided (see Section 3).

4.3 Volume 1 – Technical Proposal

- A. The Technical Proposal page limit is 25 pages. The Proposer may choose to allocate pages between any of the evaluation criteria as long as the Proposal does not exceed 30 pages. If a Proposer submits a proposal exceeding this limit, KCATA will consider the pages up to the allowable number and discard all subsequent pages.
- B. One page is defined as one side of a single, 8-1/2 x 11” page, with 11-point minimum font size for the substantive text. Any page over this size will be counted as two (2) pages. Any page or partial page with substantive text, tables, graphics, charts, etc., will be counted as one (1) page. Proposers may use their discretion for the font size of other materials (e.g., graphics, charts).
- C. The following are **excluded** from the page count:
- Title Page
 - Table of Contents
 - Letter of Transmittal
 - Tabs or Indices
 - Additional Lists of References
 - Resumé and background information (please do not include any more than 2 pages per individual)

Proposers may include resumes, additional references, and exhibits as Appendices.

- D. Each technical proposal should enable the evaluation committee to make a thorough evaluation and arrive at a sound determination that the proposal meets KCATA's requirements. Each technical proposal must be so specific, detailed, and complete as to clearly and fully demonstrate that the Proposer has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the requirements or state that “standard procedures will be employed” are inadequate to demonstrate how the Proposer will comply with the requirements of this procurement.

E. To achieve a uniform review process and obtain the maximum degree of compatibility, technical proposals must be organized as follows:

1. **Letter of Transmittal.** The letter should be addressed to Denise Adams, KCATA Procurement Manager, and signed by a corporate officer with authority to bind the firm. The letter must contain the following:
 - a. Identification of proposing firm(s), including name, address, telephone number(s) and email addresses of each subconsultant.
 - b. Proposed working relationship among firms identified (i.e., Prime, Sub-consultant).
 - c. List of key personnel that will be associated with this project.
 - d. Acknowledgement of Receipt of Addenda (if any).
 - e. Briefly state the firm's understanding of the services to be performed and make a positive commitment to provide services and specified.
2. **Title Page.** Show the RFQ Number and title, the name of the firm, address, telephone number(s), email address, fax number(s) and date.
3. **Table of Contents.** Clearly identify the materials submitted by section and page number.
4. **General Business Background.** Provide a brief synopsis of the Proposer's and major subconsultants businesses, including when and where incorporated, major business activities, and a listing of the Officers of the Company. State whether the firm is local, regional, or national and how long the firm has been in existence under current ownership/management and where the offices are located.
5. **Project Manager and Key Personnel Experience and Qualifications**
 - a. This section should demonstrate the Proposer's experience, skills, and qualifications of the key personnel in the area of contract administrative services, and especially for public agencies funded with public monies/federal grants, as requested in this RFQ. Describe direct experience of all staff to be assigned to this project. Detail any plans on services the Proposer will provide that are not specifically required in this RFQ.
 - b. Provide resumés (please limit to no more than two (2) pages per individual) for the key personnel and discuss the unique qualifications these individuals bring to the project. Indicate whether each has worked for entities similar to KCATA and what is requested in the RFQ. Include this information for each subconsultant.
 - c. Include any special knowledge skills and abilities you believe are required for this project, including direct experience in the areas of construction administration, testing and inspection services. Also include what percentage you foresee each person on the team will be dedicated to the project. This should include all planned subconsultants and staff to be included on the project.
 - d. Describe direct experience implementing government-funded and regulated projects with multiple stakeholders, meeting schedules, budgets, and extensive federal reporting requirements. Detail any added services that the Proposer will provide that are not specifically requested in this RFQ.
 - e. Identify primary office location for the Project Manager and key staff members. Define typical

response time to requests for unscheduled/unforeseen meetings and coordination efforts that may arise during the project.

f. References. The offeror shall demonstrate past performance related to the scope of work. Prime Consultant and each major subconsultant shall provide a minimum of three (3) references to enable KCATA to assess the quality of the offeror's and major subconsultants' past performance. The referenced contracts shall be similar in scope, magnitude, and complexity to that contemplated in this RFQ. The references should include:

- Name and address of contracting entity, state or local governments, agency, or commercial customer.
- Contract type
- Contract Value
- Brief description of services required under the contract, including performance location(s) and performance period.
- Contact information for a person that can speak to the work performed to include name, title, telephone number and email address.

6. **Exception and Omissions.**

a. Exceptions.

- 1) The proposal should clearly identify any exceptions to the requirements set forth in this RFQ.
- 2) Proposers should also review the sample terms and conditions (Attachment B) and identify any exceptions to the clauses included therein. KCATA will provide the sample contract in Word format that Proposers may redline and submit with their proposal. The Proposer's submittal may be considered non-responsive in the event KCATA and Proposer do not reach mutual agreement on any exceptions noted.

b. Omissions. The Contractor will be responsible for providing all services which are necessary within the general parameters described in this RFQ, and consistent with established industry practices, regardless of whether those services are specifically mentioned in this RFQ or not. The Proposer should clearly identify any omissions to the requirements set forth in the RFQ.

8. **Subcontractor Utilization Plan.**

a. Subcontractors must be approved by KCATA prior to contract award. If applicable, Proposers shall provide the following information regarding firms that will perform a portion of the work.

- Company name
- Address
- Contact person and title
- Telephone number, facsimile number, and email address
- Indicate if an affiliate or subsidiary of another firm and provide details
- Date business was established and number of years under present ownership/management
- Clearly state the services/role on this project
- Resumes indicating experience, education, licenses, and certifications of key personnel that will be involved in this project
- Provide up to three (3) current, relevant references for contracts performing similar work. Include contract amount, contract start/end dates, type of services performed,

assigned Project Manager and other key personnel.

- b. Include the following signed and dated certification statement:

"I certify that each subcontractor has been notified that it has been listed in this proposal and that each subcontractor has consented, in writing, to its name being submitted for this RFQ. Additionally, I certify that I shall notify each subcontractor in writing if the award is granted to my firm, and I will make all documentation available to KCATA upon request."

4.4 Volume 2 – Contractual

- A. **Financial Condition of the Firm.** In this section the Proposer must submit information demonstrating that it is financially sound and has the necessary financial resources to perform the contract in a satisfactory manner. The Proposer is required to permit KCATA to inspect and examine its financial statements. The Proposer shall submit two (2) years of the firm's most recent audited financial statements. If audited statements are not available, please provide two (2) years of its most recent audited annual financial statements if available. These statements consist of Statement of Financial Position (Balance Sheet), Results of Operations (Income Statement), Statement of Cash Flow, and Statement of Retained Earnings, and applicable footnotes. Supplementary financial information may be requested as necessary. **Financial statements from subcontractors are not required.**
- B. **Disclosure of Investigations/Actions.** Proposer must provide a detailed description of any investigation or litigation, including administrative complaints or other administrative proceedings, involving any public-sector clients during the past five (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, status, and, if applicable, the disposition.
- C. **Proposer Status and Affirmative Action**
1. All firms (prime contractors, subcontractors, and suppliers) doing business with KCATA must complete a vendor registration process. KCATA uses a secure online vendor management system (B2GNow). Confidential information (Tax ID, etc.) will not be published. *Vendors that have previously registered with KCATA must now also complete the online process with updated information.* Vendors will only need to register once but will be required to submit updated certifications/affidavits on a regular basis.
 2. 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.
 3. Prime Consultants must complete the online Vendor Registration Questionnaire. Sub-consultants are encouraged to register to be included in notices of future solicitations.
 4. Current IRS Form W9.
 5. **Optional Documents.** Firms have the option to attach additional documents to the Questionnaire, including brochures, insurance certificates and bonds.
 6. For questions on these requirements, or for assistance in completing the forms, please contact Maurice Gay, KCATA's DBE/Civil Rights Programs Manager, at (816) 346-0366 or via email at mgay@kcata.org.
- D. **Forms Due with Proposal Submission:** The following forms are required and must be provided as part of **Volume III: Contractual**.
1. **KCATA Affidavit of Civil Rights Compliance.** Contractors and subcontractors agree to comply with Federal Transit Law, specifically 49 U.S.C. 5332 which prohibits discrimination, including discrimination

in employment and discrimination in business opportunity. This form is included as Attachment E. In lieu of this form, firms may submit a current certificate from another government agency verifying compliance with their Affirmative Action program.

2. **KCATA Workforce Analysis/EEO-1 Report.** Firms have the option of submitting KCATA's form or a current EEO-1 Report that has been filed with another government agency.
3. **Employee Eligibility Verification**
 - a. In accordance with Section 285.500 RSMo, firms are required by sworn affidavit and provision of documentation, to affirm its enrollment and participation in a Federal work authorization program with respect to employees working in connection with the contracted services. The Proposer is required to obtain the same affirmation from all subcontractors at all tiers.
 - b. The Proposer 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). This form will need to be updated annually.
 - c. Acceptable proof of enrollment includes 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 (DHS).
 - d. The Proposer shall obtain this affidavit from its subcontractors at all tiers.
 - e. This form is renewable annually.
4. **Debarment.**
 - a. The Proposer must certify that is not included in the "U. S. General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs."
 - b. The Proposer agrees to refrain from awarding any subcontractor of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain a similar certification from any subcontractor (at any tier) seeking a contract exceeding \$25,000.
 - c. The Proposer agrees to provide KCATA with a copy of each conditioned debarment or suspension certification provided by a prospective subcontractor at any tier, and to refrain from awarding a subcontract with any party that has submitted a conditioned debarment or suspension certification until FTA approval is obtained.
5. **Lobbying.**
 - a. Pursuant to Public Law 104-65, the Proposer is required to certify that no Federal funds were used to influence or attempt to influence an officer or employee of any Federal department or agency, a member of Congress or State legislature, an officer or employee of Congress or State legislature, or an employee of a member of Congress or State legislature regarding the project(s) included in this contract.
 - b. Proposers who use non-Federal funds for lobbying on behalf of specific projects or proposals must submit disclosure documentation when these efforts are intended to influence the decisions of Federal officials. If applicable, Standard Form-LLL, "Disclosure Form to Report Lobbying", is required with the Proposer's first submission initiating the KCATA's consideration for a contract. Additionally, disclosure forms are required each calendar quarter following the

first disclosure if there has been a material change in the status of the previous disclosure. A material change includes: 1) a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; 2) a change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or 3) a change in the officer(s) or employee(s) or Member(s) contacted to influence or attempt to influence a covered Federal action.

- c. The Proposer is required to obtain the same certification and disclosure from all subcontractors (at all tiers) when the Federal money involved in the subcontract is \$100,000 or more. Any disclosure forms received by the Proposer must be forwarded to the KCATA.

6. **Federal Tax Liability and Recent Felony Convictions.**

- a. Pursuant to 48 CFR Parts 1, 4, 9, 12 and 52 the Contractor affirmatively represents and certifies that 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) The Contractor has not been convicted of any felony criminal violation under any Federal law within the preceding 24 months; or
 - 3) The Contractor has not more than 90 days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.
- b. Contractor is described as any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association.
- c. 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).

7. **Letter of Intent to Subcontract.** This letter is required for each DBE subcontractor that will be utilized on the project and must be signed by both the Prime and the Subcontractor.

8. **Non-Collusion Affidavit.**

9. **Receipt of Addenda.** If an Addendum is issued as part of this RFQ, please provide the "Receipt of Addenda" form that was issued with Addendum #1.

4.5 Proposal Evaluation Criteria

A. Proposals will be evaluated by a Selection Committee based on the following criteria which are listed in descending order of importance.

- 1. **Work Experience, Demonstrated Knowledge of Scope of Work and Deliverable Services, and Overall Qualifications.** **30 Points Total**
Included in this evaluation are such matters as:
 - a. Experience and qualifications of the key personnel proposed in accordance with this RFP.
 - b. Depth of knowledge and experience of firm and personnel in areas of Construction

Administration, Testing, Inspection and Required Scope of Work.

- c. Success and experience in providing similar services to public sector clients with federal/public funding sources and accomplishment of quality, required deliverables met for clients.
- d. Overall size of professional and support staff; office location in relation to KCATA's headquarters; and other resources available (regional and/or national).
- e. The quality and value of any previous services work performed by proposer for the KCATA.

2. Project Approach Management and Organizational Skills 30 Points Total

Includes project management plan, firm capacity and staffing levels needed to successfully perform the required services. Also includes clarity, quality, and thoroughness of the proposal content in addressing the Scope of Services and deliverables in a clear, easily understood format. Proposer's strategic plan for providing services on time, within budget and identifying the software system(s) implemented and/or intended for use to achieve deliverables.

3. Proposal Merit 20 Points Total

Proposer shall be evaluated on their understanding of the Scope of Work/Deliverables and how well the end result to be achieved is understood and conveyed in the Proposal to KCATA. Use of succinct language, descriptions, and ability to identify any services that may be beneficial and/or necessary to the completion of the Work that is not specified by KCATA.

4. Past Performance and Client References 20 Points Total

Identify clients and the projects Proposer provided like services for on projects similar in size and value. Name the primary point of contact who may be emailed or telephoned in order for KCATA to conduct reference checks as part of analysis of Proposals received. The information provided must be accurate and current.

4.6 Presentations/Interviews/Written Responses

Highly qualified Proposers submitting responsive and responsible proposals may be invited to interview with the evaluation committee at their own expense. The evaluation committee may also require a Proposer(s) to submit written responses to questions regarding its proposal. Proposers selected for interview will be notified. Interviews will be held virtually through Microsoft Teams.

4.7 Consultant Selection

- A. Based on the evaluation process described above, the Evaluation Committee will determine the best-qualified firm/team for this project and request a Cost/Price Proposal. The Cost/Price Proposal will include employee job descriptions/titles, hourly labor rates, and overhead rates for Prime and Subconsultants. If negotiations are successful, the Evaluation Committee will recommend the best-qualified firm/team to KCATA's Board of Commissioners for final authorization.
- B. If KCATA fails to reach an agreement with the top-ranked team, the KCATA may begin this process with the second ranked firm/team.

4.8 Contract Award

The selected Proposer shall only perform work on the Contract after the effective date is affixed and the fully executed contract sent to the selected proposer. Upon proof of contractually required insurance, KCATA shall issue a written

Notice to Proceed to the selected Proposer authorizing the work to begin on a date which is on or after the effective date. The selected Proposer shall not start the performance of any work prior to the date set forth in the Notice to Proceed and KCATA shall not be liable to pay the selected Proposer for any service or work performed or expenses incurred before that date. No KCATA employee or Board member has the authority to verbally direct the commencement of any work under the contract.

ATTACHMENT A
PROPOSAL SUBMITTAL CHECKLIST -- DOCUMENT/FORM REQUIREMENTS

The following forms are required to be submitted as part of proposal. Your Proposal may be considered non-responsive if you fail to submit the required documents for Prime and all sub-consultants at the closing date/time. The electronic copy of these forms can be obtained by going to: http://www.kcata.org/about_kcata/entries/vendor_forms

- Volume 1: Technical Proposal
- Volume 2: Contractual Documents
 - ✓ Attachment D Affidavit of Civil Rights Compliance (for Prime and all Subcontractors)
 - ✓ Attachment E-2 KCATA EEO-1/Workforce Analysis Report (for Prime and Subcontractors)
 - ✓ Attachment F-1 Affidavit of Primary Participants Regarding Employee Eligibility Verification (Prime Contractor)
 - ✓ Attachment F-2 Affidavit of Lower-Tier Participants Regarding Employee Eligibility Verification, if applicable (Subs)
 - ✓ Attachment G-1 Certification of Primary Participant Regarding Debarment, Suspension (Prime Contractor)
 - ✓ Attachment G-2 Certification of Lower-Tier Participants Regarding Debarment, Suspension, if applicable (Subs)
 - ✓ Attachment H-1 Certification of Primary Participants Regarding Restrictions on Lobbying (Prime)
 - ✓ Attachment H-2 Certification of Lower-Tier Participants Regarding Restrictions on Lobbying, if applicable (Subs)
 - ✓ Attachment I-1 Certification of Primary Participants Regarding Federal Tax Liability and Conviction (Prime)
 - ✓ Attachment I-2 Certification of Lower-Tier Participants Regarding Federal Tax Liability and Conviction (Subs)
 - ✓ Attachment J Letter of Intent to Subcontract (for DBE Subcontractors only – signed by Prime and DBE)
 - ✓ Attachment K KCATA Non-Collusion Affidavit
- Additional Submittals
 - ✓ Financial Statements for Past Two (2) Years (Prime Contractor Only) – these are to be submitted as a separate pdf document and marked Confidential.
 - ✓ Redlined Exceptions to KCATA’s Terms and Conditions in Word format.
 - ✓ Receipt of Addenda Form (if an addendum is issued as part of this RFQ)

**ATTACHMENT B
SAMPLE CONTRACT/TERMS AND CONDITIONS**

THIS CONTRACT (the "Contract"), made and entered into as of the ____ day of _____, 2024, by and between the **Kansas City Area Transportation Authority ("KCATA")**, a body corporate and politic, and a political subdivision of the States of Missouri and Kansas, with offices at 1350 East 17th Street, Kansas City, Missouri, 64108, and _____ ("**Contractor**"), with offices at _____.

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

1. EMPLOYMENT OF CONTRACTOR.

This Contract is entered into for the purpose of engaging the Contractor as an independent contractor by KCATA in accordance with that certain proposal submitted by the Contractor dated _____, a copy of which is attached hereto as Appendix D and incorporated herein by reference ("Proposal").

2. SCOPE OF CONTRACT.

The Contractor shall provide the services and deliverables consistent with the Request for Qualifications (RFQ) solicited by the KCATA, dated November 29, 2023, entitled "Kansas City Area Transportation Authority (KCATA) Construction Administration, Testing, and Inspection Services for Kansas City Streetcar's Riverfront Extension" (sometimes referred to as the "Project" or the "Work"), which is incorporated herein as Appendix B. The Contractor hereby agrees to provide these services and deliverables as needed at the prices stated in Cost/Price Proposal attached hereto as Appendix D for the KCATA in accordance with the specifications of the scope of contract provided in the Contract Documents herein.

3. TERM.

The term of this contract agreement shall be for a period beginning on the date noted above and expiring on September 30, 2026. The services to be performed and deliverables to be provided shall commence upon receipt of a notice to proceed from the KCATA. Work in process prior to expiration of the contact agreement shall be completed and as construed by KCATA to be within the "contract term."

4. CONTRACT SUM.

The KCATA shall pay the Contractor in current funds for the performance of the services and required deliverables (Appendix B to this Contract), subject to (a) the terms and conditions of the Contract and (b) any KCATA authorized additions or deductions by "Change Order," if applicable, as provided in this Contract. The contractor shall be paid for the work performed at the rates set out in the Contractor's Cost/Price Proposal (Appendix E) and in accordance with KCATA's Travel Policy for Contractors (Appendix C). It is anticipated that the funds to be paid the Contractor under this contract shall not exceed the sum of _____ Dollars (\$_____).

5. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, scope of services, or provisions which constitute this Contract, the following order of precedence shall apply:

- A. Specific written amendments or modifications/change orders to the executed Contract;
- B. KCATA's Standard Terms and Conditions;
- C. Executed Contract and any attachments incorporated by reference
- D. Contractor's Cost/Price Proposal; and
- E. KCATA's RFQ and Scope of Services, including any attachments incorporated by reference.

6. MISCELLANEOUS PROVISIONS.

The following Appendices are attached hereto by reference as part of this Contract. This Contract and any amendments issued hereafter, constitute the entire Contract between the KCATA and the Contractor.

- Appendix A. KCATA Contract Terms and Conditions; and
- Appendix B. Scope of Services from KCATA’s RFQ; and
- Appendix C. KCATA’s Travel Policy for Contractors; and
- Appendix D. Contractor’s Proposal; and
- Appendix D. Cost/Price Proposal Submitted by Contractor dated _____.

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

**CONTRACTOR’S NAME
(CONTRACTOR)**

**KANSAS CITY AREA TRANSPORTATION
AUTHORITY (KCATA)**

By _____
Name of Authorized Signer
Title of Authorized Signer

By _____
Reginald Townsend
Chair, KCATA Board of Commissioners

By _____
Samantha Overman
Assistant Secretary, KCATA Board of Commissioners

SAMPLE CONTRACT TERMS AND CONDITIONS (ATTACHMENT B CONTINUED)

1. ACCEPTANCE OF SERVICES/DELIVERABLES – NO RELEASE

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

2. AGREEMENT IN ENTIRETY

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

3. ASSIGNMENT

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

4. BANKRUPTCY

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

5. BREACH OF CONTRACT; REMEDIES

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

6. CHANGES

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

7. CIVIL RIGHTS

- A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, age, sex, sexual orientation, gender identity, national origin or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing regulations that the Federal Transit Administration (FTA) may issue.
- B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Contract:
1. Race, Color, Creed, National Origin or Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, *et seq.*, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor" 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, age, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 2. Age. In accordance with 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.
 3. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et eq.*, and the Federal transit law at 49 U.S.C. § 5332, the 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.
- C. **ADA Access Requirements.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112 and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Contractor agrees that it will comply with the requirements of U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37; and U.S. Department of Transportation regulations, "Americans with Disabilities Accessibility Specifications for Transportation Vehicles," 36 CFR Part 1192 and 49 CFR Part 38, pertaining to facilities and equipment to be used in public transportation. In addition, the Contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. Contractor also agrees to comply with any implementing requirements FTA may issue.

- D. Contractor understands that it is required to include this Article in all subcontracts. Failure by the Contractor to carry out these requirements or to include these requirements in any subcontract is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the KCATA deems appropriate, including but not limited to withholding monthly progress payments and/or disqualifying the Contractor from future bidding as non-responsible.

8. 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.

9. CONTRACTOR'S PERSONNEL

All 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.

10. 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.

11. DISPUTE RESOLUTION

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

12. DIVERSE BUSINESS ENTERPRISE REQUIREMENTS

- A. It is the policy of KCATA that Disadvantaged (DBE), Small (SBE), Minority-Owned (MBE), Woman-Owned (WBE), and

Small Local (SLBE) Business Enterprises, shall have an equal opportunity to participate in KCATA contracts. It is also the policy of KCATA to:

1. Ensure nondiscrimination in the award and administration of contracts;
 2. Create a level playing field on which diverse firms can compete fairly for contracts;
 3. Ensure that KCATA's diversity programs are narrowly tailored in accordance with applicable law;
 4. Help remove barriers to the participation of diverse firms in contracts;
 5. To promote the use of diverse firms in all types of contracts and procurement activities; and
 6. Assist in the development of firms that can compete successfully in the marketplace outside the diversity program.
- B. KCATA's diversity programs are based on the requirements of Title 49, Code of Federal Regulations, Part 26, and this Contract is subject to those regulations. Under this contract, Federally funded projects shall abide by DBE or SBE requirements as applicable. Projects that are funded by state or local entities will be subject to MBE, WBE, or SLBE requirements.
- C. For this contract, a ___% Disadvantaged Business Enterprise (DBE) commitment has been established.
- D. The Contractor shall not discriminate on the basis of race, color, national origin or sexual orientation, or gender identity 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 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)).
- E. The Contractor may not substitute, remove, or terminate a diverse 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 diverse subcontractor, the Prime Contractor must give notice in writing to the diverse 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 diverse subcontractor 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.
1. Good Cause. Good cause includes the following circumstances:
 - a. The listed diverse subcontractor fails or refuses to execute a written contract; or
 - b. The listed diverse 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
 - c. The listed diverse subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
 - d. The listed diverse subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
 - e. The listed diverse 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

- f. The diverse subcontractor is not a responsible contractor; or
 - g. The listed diverse subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
 - h. The listed DBE is ineligible to receive diverse credit for the type of work required;
 - i. A diverse owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
 - j. Other documented good cause that compels KCATA to terminate the diverse subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a diverse firm it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the diverse contractor was engaged or so that the Prime Contractor can substitute another diverse or non-diverse contractor.
2. Before submitting its request to terminate or substitute a diverse subcontractor, the Prime Contractor must give notice in writing to the diverse 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 diverse firm 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.

13. EMPLOYEE ELIGIBILITY VERIFICATION

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

14. FORCE MAJEURE

- A. 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; pandemic; 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.

- B. 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.

15. GENERAL PROVISIONS

- A. **No Third-Party Beneficiaries.** The parties do not intend to confer any benefit hereunder on any person, firm, or entity other than the parties hereto.
- B. **Extensions of Time.** No extension of time for performance of any Contractor obligations or acts shall be deemed an extension of time for performance of any other obligations or acts.
- C. **Time of Essence.** Time is of the essence in Contractor's performance of this Agreement.
- D. **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.
- E. **Binding Effect.** This Contract shall bind and inure to the benefit of the legal representatives, successors and permitted assigns of the parties.
- F. **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.
- G. **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.
- H. **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.
- I. **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.

- J. **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.
- K. **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.
- L. **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. GOVERNING LAW; CHOICE OF JUDICIAL FORUM

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

17. 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.

18. INDEPENDENT CONTRACTOR

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

19. INSPECTION OF SERVICES

- A. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the services provided in the performance of the Contract. "Services" as used in this clause, includes services performed, quality of the work, and materials furnished or used in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the project. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Authority during contract performance and for as long afterwards as the Contract requires.

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

20. INSURANCE

- A. The insurance required in this Contract shall be written for not less than any limits of liability required by law or by those set forth below, whichever is greater, and shall include blanket contractual liability insurance as applicable to the Contractor's obligations under the Liability and Indemnification section below. All policies, except Professional Liability policies, shall name KCATA, its commissioners, officers, and employees as additional insureds. The insurance should be written with companies acceptable to KCATA and the companies should have a minimum A.M. Best's insurance rating of A-(VIII). An exception to the minimum A.M. Best rating is granted for Workers Compensation exposures insured through the Builders' Association of Self Insurance Fund (BASIF).
- B. The Contractor shall be required to furnish to KCATA certificates verifying the required insurance and relevant additional insured endorsements prior to execution of the Contract, and thereafter furnish the certificates on an annual basis. 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.**
- C. Further, from time to time and whenever reasonably requested by KCATA, the Contractor shall represent and warrant to KCATA (1) the extent to which the insurance limits identified below have been, or may be, eroded due to paid or pending claims under the policies; and (2) the identity of other entities or individuals covered as an additional insured on the policies. Further, the Contractor shall confirm that the insurers' obligation to pay defense costs under the policies is in addition to, and not part of the liability limits stated in the policies.
- D. All such insurance, with the exception of Professional Liability coverage, shall contain endorsements that the policies may not be canceled or amended or allowed to lapse by the insurers with respect to KCATA its commissioners, officers and employers by the insurance company without thirty (30) days prior notice to KCATA in addition to the

Named Insured (s) and that denial of coverage or voiding of the policy for failure of Contractor to comply with its terms shall not affect the interest of KCATA, its commissioners, officers and employees thereunder.

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

1. **Worker's Compensation:**

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

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

2. **Commercial General Liability:**

Bodily Injury and Property Damage to include Products and Completed Operations:

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

Contractor shall procure and maintain at all times during the term of the KCATA purchase order or the Contract commercial general liability insurance for liability arising out of the operations of the Contractor and any subcontractors. The policy(ies) shall include coverage for the Contractor's and subcontractors' products and completed operations for at least two (2) years following project completion, or as otherwise noted. The policy(ies) shall name as an additional insured, in connection with Contractor's activities, the KCATA, its commissioners, officers, and employees. The Contractor shall be responsible for all premiums associated with the requested policy(ies) and endorsements. The Insurer(s) shall agree that its policy(ies) is primary insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance or self-insurance KCATA may have.

3. **Auto Liability:**

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

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

4. **Professional Liability Insurance**

Professional Liability Limit: \$1,000,000 Each Claim
\$1,000,000 Annual Aggregate

Where applicable, the Contractor shall obtain professional liability insurance covering any damages caused by an error, omission or any negligent acts of the Contractor or its employees with regard to performance under this Agreement.

5. **Umbrella or Excess Liability**

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

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

21. **LIABILITY AND INDEMNIFICATION**

- A. **Contractor's Liability.** Contractor shall be liable for all damages to persons (including employees of Contractor) or property of any type that may occur as a result of any act or omission by Contractor, any subcontractors, or sub-subcontractor, their respective agents or anyone directly employed by any of them or anyone.
- B. **Subrogation.** Contractor, its agents, and any subcontractor hereby waive and relinquish any right of subrogation or claim against KCATA, its commissioners, senior leaders and employees arising out of the use of KCATA's premises (including any equipment) by any party in performance of this Agreement.
- C. **Indemnification.**
1. To the fullest extent permitted by law, Contractor agrees to and shall indemnify, defend and hold harmless KCATA, its Commissioners, officers and employees from and against any and all claims, losses, damages, causes of action, suits, liens and liability of every kind, (including all expenses of litigation, expert witness fees, court costs and attorney's fees whether or not suit be commenced) by or to any person or entity (collectively the "Liabilities") arising out of, caused by, or resulting from the acts or omissions of Contractor, subcontractors, or sub-subcontractors, their respective agents or anyone directly or indirectly employed by any of them in performing work under this Contract, 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.

- D. **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.

22. LICENSING, LAWS, AND REGULATIONS

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

23. NOTIFICATION AND COMMUNICATION

- A. Communications regarding technical issues and activities of the project shall be exchanged with Linda Clark, KCATA’s Senior Project Manager, at (816) 346-0389 or via e-mail at ksanders@kcata.org.
- B. 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: Denise Adams, Manager of Procurement
Kansas City Area Transportation Authority
1350 East 17th Street
Kansas City, MO 64108

If to Contractor: _____

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

24. OWNERSHIP, IDENTIFICATION, AND CONFIDENTIALITY OF WORK

- A. 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.
- B. KCATA shall be entitled to copies of these materials during the progress of the work.
- C. Any data produced by Contractor's software shall be transferred to KCATA at no cost, in a timely manner, and in the format required by KCATA to access and utilize the data.
- D. Any such material remaining in the possession of the Contractor or in the possession 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 material.
- E. The Contractor may retain a copy of all materials produced under this Contract for its own internal use.
- F. 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 work set forth in this agreement.
- G. Access to copies of any reports, information, data, etc., available to or prepared or assembled by the Contractor under this Contract shall not be made available to any third party by the Contractor without the prior written consent of KCATA.

25. PRIVACY ACT REQUIREMENTS

- A. 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.
- B. 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.
- C. 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.
- D. 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.

26. PROHIBITED INTERESTS

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

- B. No member of, or delegates to, the Congress of the United States shall be admitted to any share or part of the Contract, or to any benefit arising there from. This shall not be construed to prevent any such person from owning stock in a publicly owned corporation.

27. PROHIBITED WEAPONS AND MATERIALS

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

28. RECORD RETENTION AND ACCESS

- A. The Contractor agrees that, during the course of this agreement and any extensions thereof, and for three years thereafter, it will maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to this Contract in accordance with 2 C.F.R. §§ 200.333. In the event of litigation or settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain same until such litigation, appeals, claims, or exceptions related thereto have been disposed of.
- B. The Contractor shall permit KCATA, the U.S. Secretary of Transportation, the Comptroller General of the United States, and, as applicable, 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.
- C. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed, and to include this clause in all subcontracts.

29. REQUESTS FOR PAYMENT

- A. Contract shall timely submit invoices for work performed each calendar month by the 15th day of each subsequent month for work performed the previous month. Invoices requesting payment shall be submitted electronically to KCATA's dedicated Accounts Payable email at payme@kcata.org. Invoices shall be numbered, dated, and contain full descriptive information of materials or services furnished per Agreement by and between the Contractor and KCATA. Contractor shall reference KCATA's contract number and FSM number (provided by KCATA to Contractor), the billing period applicable and, if travel expenses, pre-approved before issuance of an Agreement by the Authority, are included for reimbursement, receipts for each line item claimed as reimbursable shall be included with Invoice and/or Payment Application. Contractor agrees the KCATA shall have no contract obligation to pay any contractor invoices submitted to the KCATA more than ninety (90) days from the date the service was performed for the KCATA.
- B. Payment by KCATA shall be made within 30 days after receipt of a proper and timely invoice.
- C. All final invoices shall be submitted to KCATA within 90 days of project completion or contract termination. Invoices submitted more than 90 days after project completion or contract termination will not be valid and will not be paid. Contractor indemnifies and holds KCATA harmless for any suit filed for payment of invoices submitted after 90 days of project completion or contract termination.
- D. **Subcontractor Payments.**
1. Prompt Payment. The Contractor shall establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor shall pay each DBE and non-DBE subcontractor for satisfactory performance of its contract, or any billable portion thereof, in accordance with the timing set forth in any applicable laws or no later than 30 days, whichever is less, from the date of the Contractor's receipt of payment from the Authority for work by that subcontractor.
 2. Prompt Return of Retainage. If retainage is withheld from subcontractors, the Contractor is required to return any retainage payment to its DBE and non-DBE subcontractors in accordance with the timing set forth in any applicable laws or no later than 30 days, whichever is less, from the date of receipt of the retainage payment from the Authority related to the subcontractor's work. Any delay or postponement of payment from said time frame may occur only for good cause following written approval from KCATA.
 3. The Contractor shall certify on each payment request to the Authority that payment has been or will be made to all subcontractors. Lien waivers may be required for the Contractor and its subcontractors. The Contractor shall notify KCATA on or before each payment request, of any situation in which scheduled subcontractor payments have not been made.
 4. If a subcontractor alleges that the Contractor has failed to comply with this provision, the Contractor agrees to support any Authority investigation, and if deemed appropriate by the Authority, to consent to remedial measures to ensure that subcontractors are properly paid as set forth herein.
 5. The Contractor agrees that the Authority may provide appropriate information to interested subcontractors who inquire about the status of Authority payments to the Contractor.
 6. Nothing in this provision is intended to create a contractual obligation between the Authority and any subcontractor or to alter or affect traditional concepts of privity of contract between all parties.

30. RIGHT TO OFFSET

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

31. SEAT BELT USE POLICY

Contractor agrees to comply with terms of Executive Order No. 13043 "Increasing Seat Belt Use in the United States" and is encouraged to include those requirements in each subcontract awarded for work relating to this Agreement.

32. SEVERABILITY

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

33. SUBCONTRACTORS

- A. **Subcontractor Approval.** None of the work or services covered by this Contract shall be subcontracted without the prior written approval of KCATA. The only subcontractors approved for this Contract, if any, are listed in an appendix to this Contract. Any substitutions or additions of subcontractors must have the prior written approval of KCATA as set forth herein.
- B. The Contractor is responsible for managing and directing the work of the Subcontractors and for all actions of subcontractors performing work under this Contract. Any contact from Subcontractors to KCATA shall be limited to KCATA's Director of Procurement.
- C. **DBE Subcontractor Employment.** See paragraph 12, "Diverse Business Enterprise Requirements".
- D. **Subcontractor Payments.** See Requests for Payment Provisions.
- E. **Adequate Provision(s) in Subcontract(s).** Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete agreement. In addition, all subcontracts shall contain contractual provisions or conditions that allow for:
 - 1. Administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, including sanctions and penalties as may be appropriate.
 - 2. Termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
 - 3. The following provisions if included in this Contract:
 - Acceptance of Services/Deliverables – No Release
 - ADA Access Requirements
 - Agreement in Entirety
 - Architect and Engineer – Rights and Responsibilities
 - Assignment
 - Bankruptcy
 - Breach of Contract; Remedies
 - Changes
 - Civil Rights
 - Conflicts of Interest
 - Contractor's Personnel
 - Contractor's Responsibility
 - Debarment and Suspension
 - Disadvantaged Business Enterprise (DBE)
 - Disclaimer of Federal Government Obligations or Liability
 - Dispute Resolution
 - Diverse Business Enterprise Requirements
 - Employee Eligibility Verification

Environmental Regulations
Federal Changes
Federal Tax Liability and Convictions
Force Majeure
Fraud and False or Fraudulent Statements or Related Acts
General Provisions
Governing Law: Choice of Judicial Forum
Hazardous Material
Headings
Incorporation of FTA Terms
Independent Contractor
Inspection of Services
Insurance
Liability and Indemnification
Licensing, Laws, and Regulations
Lobbying
Notification and Communication
Ownership, Identification, and Confidentiality of Work
Privacy Act Requirements
Prohibited Interests
Prohibited Weapons and Materials
Prohibition on Certain Telephone and Video Surveillance Equipment
Record Retention and Access
Requests for Payment
Right to Offset
Rights in Data
Seat Belt Use Policy
Severability
Subcontractors
Suspension of Work
Termination
Texting While Driving and Distracted Driving
Unavoidable Delays

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

34. 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.

35. TERMINATION

- A. **Termination for Convenience.** The KCATA may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in KCATA's best interest. The Contractor will only be paid the Contract price for supplies delivered and accepted or work or services performed in accordance with the manner of performance set forth in the Contract.

- B. **Funding Contingency.** If this Contract is subject to financial assistance provided by the U.S. Department of Transportation, the Contractor agrees that withdrawal or termination of such financial assistance by the U.S. DOT may require KCATA to terminate the agreement.
- C. **Termination for Default.**
1. If the Contractor does not deliver supplies in accordance with the contract delivery schedule or according to specifications, or if the Contract is for services, and the Contractor fails to perform in the manner called for in the Contract, or if the Contractor fails to comply with any other provisions of the Contract, KCATA may terminate this Contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth cost of the Contract.
 2. If the termination is for failure of the Contractor to fulfill the contract obligations, KCATA may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by KCATA. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, KCATA, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- D. **Opportunity to Cure.** KCATA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriately short period of time in which to cure the defect. In such case, the written notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to KCATA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time period permitted, KCATA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude KCATA from also pursuing all available remedies legal and non-legal against Contractor and its sureties for said breach or default.
- E. **Waiver of Remedies for any Breach.** In the event that KCATA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by KCATA shall not limit KCATA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.
- F. **Property of KCATA.** Upon termination of this Contract for any reason, and if the Contractor has any property in its possession or under its control belonging to KCATA, the Contractor shall protect and preserve the property or pay KCATA full market value of the property, account for the same, and dispose of it in the manner KCATA directs. Upon termination of this Contract for any reason, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to KCATA's Project Manager all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

36. 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.

37. UNAVOIDABLE DELAYS

- A. 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.

- B. **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.
- C. **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.
- D. 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.

37. FTA REQUIRED CLAUSES

A. Architect-Engineer Rights and Responsibilities.

1. Professional Responsibility.

- a. The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished under this Agreement. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.
- b. Neither KCATA's review, approval, or acceptance of, nor payment for the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to KCATA in accordance with applicable law for all damages to KCATA caused by the Contractor's negligent performance of any of the services furnished under this Contract.
- c. The rights and remedies of KCATA provided for under this Agreement are in addition to any other rights and remedies provided by law.
- d. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

- ##### 2. Distribution of Drawings and Documents. Both parties to this Agreement understand that KCATA may distribute drawings, specifications or other documents to federal agencies or other transit agencies. Both parties to this Agreement understand and agree that any element of design or specifications taken out of the design concept for which it was originally intended by anyone other than the Contractor will relieve the Contractor of any liability for the altered design.

- B. **Changes to Federal Requirements.** Contractor shall at all times be aware and comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures, and directives, including without limitation, those listed directly or by reference in the Agreement between the Authority and FTA (FTA Master Agreement (MA 30) dated November 2, 2022), 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.

C. **Debarment and Suspension Certification.**

- 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.

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.
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.
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.

D. **Disadvantaged Business Enterprise (DBE) Requirements.** KCATA's diversity programs are based on the requirements of Title 49, Code of Federal Regulations, Part 26, and this Contract is subject to those regulations. See paragraph 12 for KCATA Diverse Business Enterprise Requirements.

E. **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.

F. **Environmental Regulations.**

1. **Clean Air.** The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §7401-7671q *et seq.* The Contractor agrees to report, and to require each subcontractor at every tier receiving more than \$100,000 from this Contract to report any violation of these requirements resulting from any project implementation activity to KCATA. KCATA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office.
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. § 1251-1387 *et seq.* The Contractor agrees to report and require each subcontractor at every tier receiving more than \$100,000 from this Contract to report, any violation of these requirements resulting from any project implementation activity to KCATA. The Contractor understands that KCATA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office
1. **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.

G. **Federal Tax Liability and Recent Felony Convictions.**

1. Pursuant to 48 CFR Parts 1, 4, 9, 12 and 52 the Contractor affirmatively represents and certifies that:
 - a. 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;

- b. The Contractor was not convicted of the felony criminal violation under any Federal law within the preceding twenty-four (24) months; and
 - c. Have not more than ninety (90) days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.
2. Contractor is described as any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association.
 3. 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).

H. Fraud and False or Fraudulent Statements or Related Acts.

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.
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.
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.

- I. 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.

J. Lobbying Restrictions.

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, 2 C.F.R. § 200.450, 2 C.F.R. part 200 appendix II (J) and 49 CFR Part 20. The Contractor agrees to comply with this requirement throughout the term of the Contract.
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).

K. **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 RFQ 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.

L. **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 the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text 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 the Contract:
 - a. 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, until such time as KCATA may have either released or approved the release of such data to the public.
 - b. In accordance with 2 C.F.R. part 200, Appendix II (F) and 37 C.F.R. part 401, the Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the following subject data for "Federal Government purposes":
 - 1) Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - 2) Any rights of copyright purchased by KCATA or Contractor using Federal assistance in whole or in part provided by FTA.
 - c. "For Federal Government Purposes" means use only for the direct purpose of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party. 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.
 - d. Unless prohibited by state law, Contractor agrees to indemnify, save, and hold harmless KCATA and the Federal Government, its officers, agents, and employees acting within the scope of their official

duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition of any data furnished under this Contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

- e. Nothing contained in this clause on rights in data shall imply a license to the KCATA or to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to KCATA or to the Federal Government under any patent.
- f. Data developed by the KCATA or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by this Contract to which this clause has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the KCATA or Contractor identifies that data in writing at the time of delivery of the contract work.
- g. Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work funded in whole or in part with federal assistance.

Contractor Initials _____

KCATA Initials _____

KCATA Initials _____

ATTACHMENT C
KCATA'S TRAVEL POLICY FOR CONTRACTORS

Contractors will be reimbursed for authorized and documented expenses incurred while conducting KCATA business. Expenses for a traveler's companion are not eligible for reimbursement. Contractors are expected to make prudent business decisions and comparison shop for airfares, rental cars, lodging, etc., and to keep in mind that they are being reimbursed with public monies.

Receipts, paid bills, or other documentary evidence for expenditures must be submitted with requests for reimbursement. The request for reimbursement must clearly indicate the amount, date, place, and essential character of the expenditures.

The KCATA reserves the right to modify this travel policy with proper notification to Contractors.

1. **Airfare:** Commercial airline, coach class seating only. When possible, trips should be planned far enough in advance to assure purchase discounts.
2. **Lodging:** The KCATA has negotiated special rates at specific hotels. Contractors may stay at the hotel of their choice but will be reimbursed no more than a maximum daily amount of \$160.00 plus tax unless the contractor obtains prior written authorization from KCATA.
3. **Meals:** The **actual costs** of meals, including tips of generally 15-18%, will be reimbursed up to a maximum of \$59 per person a day (based on 2022 General Service Administration daily rates for the Kansas City metropolitan area). Alcoholic beverages are **not** an eligible reimbursable expense.
4. **Incidentals:** General Service Administration (GSA) reimbursement rate for incidentals is \$5 per day (tips to porters, hotel staff, etc.).
5. **Auto Rental:** Rental or leased vehicles will not be reimbursed unless pre-approved in writing by KCATA in advance. The class of auto selected, if authorized, should be the lowest class appropriate for the intended use and number of occupants.
6. **Telephone:** Project-related, long-distance business calls will be reimbursed.
7. **Number of Trips to Travel Home on Weekends:** When extended stays in Kansas City are required, the KCATA will reimburse for trips home on weekends only every third weekend. In some instances, KCATA may require relocation of an employee to Kansas City.
8. **Taxis, Airport Shuttles, Public Transportation:** Transportation between the airport and hotel will be reimbursed. Contractors should consider the number in their party and compare taxi rates to airport shuttle fees when the shuttle serves the hotel.
9. **Personal Vehicle:** Mileage for usage of personal vehicles for business travel outside the seven-county Kansas City metropolitan area (Clay, Cass, Jackson, and Platte Counties in Missouri; Johnson, Wyandotte and Douglas counties in Kansas) will be reimbursed at the current rate established by the Internal Revue Service.

ATTACHMENT D
AFFIDAVIT OF CIVIL RIGHTS COMPLIANCE
(To Be Completed by Prime and Subs)

STATE OF _____

COUNTY OF _____

On this ____ day of _____, 2023, before me appeared _____, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows: I am the _____ (title) of _____ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

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

A. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S. C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, age, sex, sexual orientation, gender identity, national origin or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing regulations that the Federal Transit Administration (FTA) may issue.

B. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Contract:

1. Race, Color, Creed, National Origin or Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, *et seq.*, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor" 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, age, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
2. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commissioner (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.
3. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12102 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et eq.*, and the Federal transit law at 49 U.S.C. § 5332, the 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.

Affiant's Signature Date

Subscribed and sworn to me before this _____ day of _____, 20__.

Notary Public Signature Date

My Commission expires: _____

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

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

A. RACIAL/ETHNIC

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

B. JOB CATEGORIES

1. **Officials and Managers**: Includes chief executive officers, presidents, vice-presidents, directors, and kindred workers.
2. **Professionals**: Includes attorneys, accountants, and kindred workers.
3. **Technicians**: Includes computer programmers and operators, drafters, surveyors, highway technicians, inspectors, and kindred workers.
4. **Sales Workers**: Includes contract sales representatives, purchasing agents, customer relations representatives and kindred workers.
5. **Office and Clerical**: Includes secretaries, 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.

ATTACHMENT E-2 --- KCATA WORK FORCE ANALYSIS/EEO-1 REPORT

Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees. Enter the appropriate figures on all lines and in all columns. All blank spaces will be considered zero. This form is also required for subcontractors and major suppliers on a project. Firms may use current EEO-1 form filed with another agency.

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

Printed Name and Title

Date Submitted

Company Name

Address/City/State/Zip Code

Telephone Number/Fax Number

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

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 2023, before me appeared _____, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows: I am the _____ (title) of _____ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

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

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

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

Affiant's signature

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission expires: _____

NOTE: An example of acceptable documentation is the E-Verify Memorandum of Understanding (MOU) – a valid, completed copy of the first page identifying the business entity and a valid copy of the signature page completed and signed by the business entity, the Social Security Administration, and the Department of Homeland Security. Firms may register at <https://www.e-verify.gov/>

**ATTACHMENT F-2
AFFIDAVIT OF LOWER-TIER PARTICIPANT
COMPLIANCE WITH SECTION 285.500 RSMO, ET SEQ.
REGARDING EMPLOYEE ELIGIBILITY VERIFICATION**

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 2023, before me appeared _____, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows: I am the _____ (title) of _____ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

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

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

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

Affiant's signature

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission expires: _____

NOTE: An example of acceptable documentation is the E-Verify Memorandum of Understanding (MOU) – a valid, completed copy of the first page identifying the business entity and a valid copy of the signature page completed and signed by the business entity, the Social Security Administration, and the Department of Homeland Security. Firms may register at <https://www.e-verify.gov/>

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

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

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

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

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT), _____ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 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

**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

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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 _____ 2023.

By _____
Signature of Authorized Official

Title of Authorized Official

**ATTACHMENT H-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 into 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 _____, 2023.

By _____
Signature of Authorized Official

Title of Authorized Official

ATTACHMENT I-1

**KANSAS CITY AREA TRANSPORTATION AUTHORITY
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, 4, 9, 12 and 52 ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

ATTACHMENT I-2

**KANSAS CITY AREA TRANSPORTATION AUTHORITY
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. 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 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, 4, 9, 12 and 52 ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

ATTACHMENT J
LETTER OF INTENT TO SUBCONTRACT
(To be completed for Each DBE Subcontractor on Project)

KCATA RFQ #F23-7013-39A – Construction Administration, Testing and Inspection Services
For Kansas City Streetcar’s Riverfront Extension Construction (Package 5)

_____ (“Prime Contractor”) agrees to enter into 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.)

DBE Subcontractor is currently certified with the Missouri Regional Certification Committee (MRCC) to perform in the capacities indicated herein as indicated in the current certificate from a MRCC Certifying Agency submitted with this proposal. 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.

Signature: Prime Contractor

Signature: DBE Subcontractor

Print Name

Print Name

Title

Date

Title

Date

**ATTACHMENT K
NON-COLLUSION AFFIDAVIT**

Request for Qualifications (RFQ) #F23-7013-39A

Kansas City Area Transportation Authority (KCATA)
Construction Administration, Testing, and Inspection Services
for Kansas City Streetcar Riverfront Extension Construction (Package 5)

State of _____

County of _____

Name and Title of Person Signing

Proposer Name

The above-named individual being first duly sworn, deposes and says that he or she is an authorized representative of the above Proposer and that all statements made, and facts set out in this proposal for the above referenced project are true and correct and that the Proposer (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 proposal in connection with such proposal or any contract which may result from its acceptance.

Affiant further certifies that Proposer is not financially interested in or financially affiliated with, any other Proposer 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 _____, 2023.

Notary Public

My Commission Expires: _____

(Seal)