

KDOT Info Sheet

Date _____

CMS Number 012150113

Project Number PT-0701-15

Agency's Name

City of Lawrence

Agency's Federal Tax Id Number (FEIN) _____

Agency's Dun & Bradstreet # (DUNS) _____

SAM Expiration Date _____
(System for Awards Management)

Electronic Direct Deposit Yes _____ No _____

* Account information must be on file.

Payment mailing address:

Phone Number _____

Fax Number _____

**AGREEMENT FOR CAPITAL AND OPERATING ASSISTANCE FUNDS
FOR
STATE TRANSPORTATION PROJECTS
BETWEEN
THE SECRETARY OF TRANSPORTATION OF THE STATE OF KANSAS
AND
LAWRENCE TRANSIT**

THIS AGREEMENT made this 1st day of July, 2014, is between Michael S. King, Secretary of Transportation of the state of Kansas (the "Secretary") and the Lawrence Transit, (the "Provider").

RECITALS:

- A. The Coordinated Public Transportation Assistance Act, K.S.A. 75-5032 et seq. (CPTAA) provides in part for capital grants to transit authority grantees for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly persons and persons with disabilities for whom mass transportation services are unavailable, insufficient, or inappropriate.
- B. The Legislature of the State of Kansas has authorized the Secretary to administer the financial assistance by selecting projects of eligible applicants and administering the funds.
- C. The Secretary has delegated this authority to KDOT's Bureau of Transportation Planning, Public Transportation Unit.
- D. The Provider has expressed an interest in sponsoring the Project within its geographic area to include the provisions and support of Public Transportation Services.
- E. The Secretary is willing to provide financial assistance to the Provider for the Project, subject to the terms and provisions contained in this Agreement.

In consideration of the mutual covenants set forth herein, the Parties agree to the following terms and provisions.

ARTICLE I

DEFINITIONS: The following terms as used in this Agreement have the designated meanings:

1. **"Agreement"** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
2. **"Capital Equipment"** means the personal property items identified in Appendix A, to be purchased by Provider pursuant to this Agreement.
3. **"KDOT"** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, K.S, 66603-3745.

4. "Parties" means the Secretary and KDOT, individually and collectively, and the Provider.
5. "Project" means those Public Transportation Services to be provided as set forth in the Provider's Project Application.
6. "Project Application" means the Provider's Project application for funding submitted to the Secretary by the Provider for state CPTAA funding, incorporated into this Agreement by this reference.
7. "Project Budget" means the budget in Appendix A, which sets forth the allowable Project Costs for the Project and establishes the amount the Secretary will reimburse the Provider for those costs, incorporated into this Agreement by this reference.
8. "Project Costs" means the allowable expenses for the Project to be incurred by the Provider.
9. "Provider" means Lawrence Transit, acting by and through Robert Nugent, its duly authorized representative, whose office is located at City Offices, 6 East 6th, Po Box 708, Lawrence, KS 66044-0708.
10. "Public Transportation Services" has the same meaning set forth in the CPTAA for "Public Transportation Services."
11. "Secretary" means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.

ARTICLE II

PARTY RESPONSIBILITIES:

1. **Purpose of Agreement.** The purpose of this Agreement is to state the terms, conditions and mutual understandings of the Parties as to the manner in which the Project will be undertaken and completed.
2. **Scope of Project.** The Provider shall undertake and complete the Project as described in its proposal which is attached and incorporated into this Agreement as Special Attachment No. 1, and in accordance with the terms and conditions of this Agreement.
3. **Cost of Project.** The cost of the Project for FY 2015 will be \$1,054,945.00, which will be provided by the Secretary from state funds. The funding will be used to support the purchase of Capital Equipment and operating expenses, as listed in Special Attachment No. 1. In addition to the purchase of the Capital Equipment, the Project will include operating costs as delineated in Appendix A, Project Budget. The Provider agrees it will provide the local funds in an amount sufficient, together with the grant, to assure payment of the total Project Costs. The Provider shall initiate and prosecute to completion all actions necessary to provide its share of the Project Costs at or prior to the time that such funds are needed to meet Project Costs. The Provider further agrees no refund or reduction of the

amount so provided will be made unless there is, at the same time, a refund made to the Secretary of a proportional amount of the grant.

4. **Provider Matching Share.** The Provider's designated combination of federal, state, local, and/or private funding source has been or will be committed to provide the Provider's required share for the Project.

5. **Time Restriction on Reimbursement.** The Provider's requests for reimbursement must be submitted by the Provider no later than **June 30, 2016**. Any funds not claimed for reimbursement by that date are forfeited by the Provider and will be retained by the Secretary. No funds will be carried over.

6. **Agreement Time.** This Agreement is effective from the date of execution of this Agreement until the useful life of the Capital Equipment, as determined by the Secretary, is expired unless this Agreement is terminated sooner in accordance with Section 10, titled Disposal of Capital Equipment, and/or Section 17, titled Termination of Agreement.

7. **Contractual Provisions.** The provisions and assurances found in the approved Project Application are incorporated into this Agreement.

8. **Title of Capital Equipment.** The Provider shall hold title to all Capital Equipment purchased pursuant to this Agreement and secured pursuant to Section 11 titled Creation of Security Interest of this Agreement.

9. **Use of Capital Equipment.** The Provider agrees the Capital Equipment will be used for the provision of transporting the general public to and from activities within the area described in the Provider's Project Application. The Provider shall maintain, in amount and form satisfactory to the Secretary, such insurance or self-insurance as will be adequate to protect Capital Equipment through the period of required use. The Provider shall keep satisfactory records with regard to use of the Capital Equipment and submit to the Secretary upon request such information as is required to ensure compliance with this Section. Capital Equipment may be used for the provision of Public Transportation Services within the metropolitan planning area, as defined by the Metropolitan Planning Organization (MPO) pursuant to 23 C.F.R. Part 450 for the Provider's geographic area. If, at any time, any capital equipment is used in a manner not approved by the Secretary or withdrawn from transportation service whether by planned withdrawal or casualty loss, the Provider shall immediately notify the Secretary. Refer to Section 10, Disposal of Capital Equipment, for procedures regarding capital equipment disposition.

10. **Disposal of Capital Equipment.** The Provider agrees the Secretary has reserved the right to dispose of the Capital Equipment as follows:

(a) **Misuse.** If, at any time, any Capital Equipment is used for purposes other than those described in the Project Application or approved by the Secretary, the Provider shall immediately notify the Secretary. The Secretary then has the option of having the Provider remit to the Secretary a proportional amount of the fair market value, if any, of the Capital Equipment, which shall be determined on the basis of the ratio of the financial assistance made by the Secretary to the actual costs of the Capital Equipment, as listed in Appendix A.

Fair Market value shall be deemed to be the value of the property as determined by a competent appraisal solicited by the Secretary.

(b) Casualty Loss. In the event of loss due to casualty or fire, the damages paid by the insurance carrier or payable from the self-insured reserve account of the Provider shall be considered fair market value. In no event is salvage value to be considered fair market value.

(c) Withdrawal. At any time the Capital Equipment is withdrawn from transportation service by planned withdrawal, the Provider shall immediately notify the Secretary and shall remit to the Secretary a proportional amount of the fair market value. The proportional amount to be based on the original funding ratio of the Capital Equipment as listed in the Appendix A.

(d) Buy Out. The Provider can submit a written request to the Secretary to obtain release of the vehicle lien only upon the Provider's withdrawal from the program or Capital Equipment replacement. The Provider understands the Secretary has the option to approve or disapprove the request to release the lien. If a request is approved, the Provider agrees to buy out the state interest based on a proportional amount of the fair market value as determined by the Secretary. The proportional amount will be based on the original funding ratio of the Capital Equipment as listed in Appendix A.

(e) Default. Any material default by the Provider in the Project Application or this Agreement allows the Secretary the option of requiring the Provider remit to the Secretary a proportional amount of the fair market value, as identified in Appendix A.

11. **Creation of Security Interest**. For the purpose of securing the performance of all the terms and conditions of this Agreement by the Provider, the Provider hereby grants to the Secretary, pursuant to K.S.A. § 84-9-101, et seq., of the Kansas Uniform Commercial Code, a security interest in the Capital Equipment listed in Appendix A of this Agreement.

12. **Records and Reports**.

(a) Establishment and Maintenance of Accounting Records. The Provider shall establish and maintain a separate account for the Project, either independently or within its existing accounting system, to be known as the Project account. The Provider agrees to keep detailed and accurate accounting records of all labor, material, supplies, incidentals, and any other necessary costs involved in the Project.

(b) Retention and Inspection of Reports. The Provider shall retain at its offices during the period of contract performance and for a period of five (5) years from the date of the release of the security lien on the vehicle to the Provider all accounting records and other evidence pertaining to the Project Costs. Copies of such records will be made available for inspection by the Secretary or his or her authorized representatives upon request. The Provider shall permit the Secretary or his or her authorized representatives to inspect and audit all books and records pertaining to the Project and Project Costs at all reasonable times.

(c) Reports. The Provider shall advise the Secretary regarding the progress of the Project at such times and in such a manner as the Secretary may require, including, but not limited to, meetings and/or written reports. The Provider shall submit to the Secretary such financial statements, data, records, contracts, and other documents related to the Project as may be deemed necessary by the Secretary. Such records, include, but are not limited to, the keeping of daily trip records.

13. Maintenance and Inspection of Capital Equipment. The Provider shall maintain, at its expense, all Capital Equipment in accordance with the detailed maintenance and inspection schedules furnished by the manufacturer. The Provider shall submit to certification of compliance with required maintenance procedures to the Secretary on an annual basis.

14. Maximum Utilization of Capital Equipment. In connection with the performance of the Project, the Provider will cooperate with the Secretary in meeting its commitments and goals with regard to the maximum utilization of Capital Equipment, insuring said Capital Equipment is used in a fashion that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographic area.

15. Default.

(a) Remedies.

(1) If the Provider fails to perform any of the terms of this Agreement where such failure would constitute grounds to terminate this Agreement as provided in Section 17, titled Termination of Agreement, or if the Provider becomes insolvent, ceases doing business as a going concern, conservatorship, or receivership or bankruptcy proceedings are instituted by or against the Provider, the Secretary shall have the option to terminate this Agreement in addition to and without prejudice to any other rights and remedies provided under this Agreement and any laws and regulations.

(2) The Secretary may, upon default by the Provider, repossess any of the Capital Equipment. Any repossession however, shall not constitute a termination of this Agreement unless the Secretary notifies the Provider of termination in writing. It is the Secretary's option to dispose of the capital equipment in accordance with procedures incorporated into this Agreement. The Provider shall be liable to the Secretary for all fees, and expenses, including attorney fees, incurred in connection with any repossession of the Capital Equipment or their disposition as provided herein.

(b) Non-waiver. Failure by the Secretary to require strict compliance with this Agreement by the Provider does not constitute a waiver of said Agreement or any provision thereof. No waiver by the Secretary of any breach or default of the Provider shall be deemed a waiver of any breach or default thereafter occurring.

16. Indemnification. The Provider shall indemnify and hold harmless the Secretary, and his or her officers, agents, employees from any and all costs, liabilities, expenses, damages, suits,

judgments, and claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement, or any contracts entered into under this Agreement, or the operation of the vehicle described herein, by the Provider, its agents, or subcontractors.

17. **Termination of Agreement.**

(a) **Without Cause.** The Secretary may for any reason cancel the Project and terminate this Agreement by written notice from the Secretary to the Provider.

(b) **For Cause.** The Secretary shall terminate this Agreement by written notice to the Provider for any of the following reasons:

- (1) The Provider, during the Capital Equipment's useful life, discontinues use of such capital equipment for the purpose of providing transportation services to elderly persons and persons with disabilities.
- (2) The Provider takes any action pertaining to this Agreement without the approval of the Secretary as required by this Agreement.
- (3) The commencement or timely completion of the Project by the Provider is, for any reason, rendered improbable, impossible, or illegal.
- (4) A material breach of this Agreement by the Provider, or a subcontractor.
- (5) The Provider becomes insolvent or commits an act of bankruptcy, or makes a general assignment for the benefit of creditors to an agent authorized to liquidate his property or assets, or becomes involuntarily bankrupt, or if a writ or warrant of attachment or levy on a judgment or other similar process is issued by any court against all or a substantial portion of the Capital Equipment of this Agreement, and the same is not removed and discharged within thirty (30) days after entry, levy or service, then this Agreement shall be deemed breached by the Provider, and terminated.

(c) **Termination by Provider.** The Provider may cancel the Project and terminate the agreement only upon written request to the Secretary and after receiving written approval by the Secretary.

(d) **Action upon Termination.** Upon termination of this Agreement, the Provider agrees to dispose of the Capital Equipment in accordance with policies and procedures in Section 10, Disposal of Capital Equipment. The termination of this Agreement shall not relieve the Provider of any of their rights and obligations to the Secretary existing at the time of expiration, or terminate those obligations of the Provider, which, by their nature, survive the termination of this Agreement.

18. **Additional Representations and Covenants of the Provider.** The Provider makes the following additional representations, warranties and covenants to the Secretary:

(a) Third Party Agreements. The Provider shall not assign this Agreement, execute any subcontract, amendment, or change order thereto, nor obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written concurrence of the Secretary.

(b) Secretary's Employees. The Provider will not, without written permission from the Secretary, engage the services of any person or persons in the employment of the Secretary for any work required by the terms of this Agreement.

(c) Compliance with Laws. The Provider agrees to comply with all federal, state, and local laws, ordinances, and regulations in the implementation of the Project covered in this Agreement, including, but not limited to, Title VI, Title VII, and Title IX of the Civil Rights Act of 1964, 49 U.S.C. § 5332, and Executive Order 11246, as amended.

(d) Responsibility to Employees. The Provider accepts full responsibility for providing workers' compensation coverage and for payment of unemployment insurance and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in the work authorized by this Agreement, and will indemnify and hold harmless the Secretary from the same.

(e) Capabilities. The Provider possesses and will maintain requisite fiscal, managerial, and legal capacity to carry out the Project.

19. Covenant Against Contingent Fees. The Provider warrants it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider, to solicit or secure this Agreement, and it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Secretary shall have the right to annul this Agreement without liability, or in his or her discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. (See Special Attachment No. 3, Certification of Provider and Certification of Secretary of Transportation, which is incorporated into this Agreement by this reference).

20. Equal Employment Opportunity. In connection with the execution of this Agreement, the Provider shall not discriminate against any employee or applicant for employment because of race, religion, color, age, sex, disabilities or national origin. The Provider shall take affirmative action to insure applicants are employed, and employees are treated during this employment without regard to race, religion, color, age, sex, national origin, or disability. Such actions shall include, but not be limited to the following: employment; upgrading; demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

21. Cooperation and Coordination of Transportation Services. The Provider has demonstrated and will continue to demonstrate acceptable efforts to achieve coordination with other transportation providers and users, including private transit and paratransit operators capable of

providing service and social service agencies capable of purchasing service. In connection with the performance of the Project, the Provider will cooperate with the Secretary in meeting the Secretary's goals and commitments with regard the provision of service that will not hamper interagency cooperation and coordination of transportation services provided in their respective geographic area.

22. **Disputes.** The Secretary shall resolve any disputes which may arise out of, or relating to, this Agreement when the Secretary and the Provider have been unable to resolve such disputes through negotiation. The Provider agrees to abide by the Secretary's resolution of any dispute.

23. **Prohibition Against Use of State Funds for Lobbying.** The Provider or any subcontractor shall not use state assistance funds for publicity or propaganda purposes designed to support or defeat legislation pending before the State Legislature.

24. **Status of the Contractor and the Secretary for the State of Kansas Procurement Procedures.** The Secretary shall not be responsible for any obligations that the Provider has assumed with using the State of Kansas' procurement procedures. Furthermore, the Provider acknowledges and agrees that its request to the Secretary to use the State of Kansas' procurement procedures shall not bind the Secretary to render or provide assistance in any manner associated with this Agreement.

25. **Prohibited Interest.** No member, or officer, of the Provider, during his/her tenure or two years thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE III

GENERAL PROVISIONS:

1. **Survival of Obligations.** The Provider's obligations and covenants to the Secretary under this Agreement survive the termination of the Agreement, whether termination occurs for any reason during the Term or termination occurs upon the Expiration Date.

2. **Civil Rights Act.** The "Special Attachment No. 4," pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

3. **Contractual Provisions Attachment.** The provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached, are hereby incorporated in this Agreement and made a part hereof (See Special Attachment No. 2).

4. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the Provider and their successors in office.

5. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not be deemed to control or affect the meaning or construction or the provisions herein.

6. **Revisions to Agreement.** Any proposed amendment to this Agreement must be submitted in writing to the Secretary for approval and is not valid and binding unless a written amendment is signed by the Secretary and the Provider.

7. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its requirements or modification.

IN WITNESS WHEREOF: the Parties have caused this Agreement to be signed by their duly authorized officers to be effective on the day and year first above written.

LAWRENCE TRANSIT

**SECRETARY OF TRANSPORTATION
KANSAS DEPARTMENT OF TRANSPORTATION**

BY: _____
Print Name: _____

BY: _____
Print Name: Joel H. Skelley

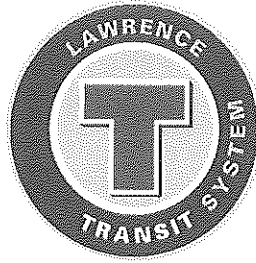
TITLE: _____

TITLE: State Multimodal Planner

Attest: _____

Attest: _____

Approved as to form:



June 11, 2014

Mr. Josh Powers, State Public Transit Manager
KDOT-Office of Public Transportation
Dwight D. Eisenhower State Office Building
700 SW Harrison
Topeka, KS 66603-3754

Dear Mr. Powers:

The City of Lawrence would like to utilize our FY2015 state grant funds, in the amount of \$1,054,945 which becomes available from the Comprehensive Transportation Program on July 1, 2014 as follows:

| | | |
|--------------|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| \$500,000.00 | Capital | Capital expenses related to bus acquisition, bus shelters and stops, signage, wheelchair landings, cut outs, computers, and other equipment/ miscellaneous items to support transit operations. We are also anticipating expenses related to a joint development project with KU associated with an historic transit display on the KU campus. |
| \$554,945.00 | Operating | Miscellaneous operating expenses related to the provision of fixed route and ADA complementary paratransit service such as amenity, systems, and equipment maintenance, Night Line demand response service, printed materials, communications, office supplies, and related professional training and memberships. |

The City of Lawrence will run a Public Notice in the June 13, 2014 edition of the Lawrence Journal World, which offers the opportunity for a public hearing. If we receive requests from the public, a hearing will be scheduled. A copy of the Public Notice is attached for your review.

If you have any questions about our request, please contact me at 785-832-3464 or send an e-mail to rnugent@ci.lawrence.ks.us. Thank you for your time and attention to our FY2015 state grant request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Nugent', written in a cursive style.

Robert Nugent
Public Transit Administrator

Cc: David Corliss, City Manager

Attachment:

The City of Lawrence, Lawrence Transit System is offering the opportunity for a public hearing on our proposed 2015 Comprehensive Transportation Program (CTP) funding in the amount of \$1,054,945. Interested parties may request such a hearing for up to 30 days after this notification, no later than 5:00 pm, July 12, 2014, by submitting their request in writing to the Lawrence Transit System, PO Box 708, Lawrence, KS 66044. If requested, the Lawrence Transit System will provide a public hearing to receive comments about the project. The State of Kansas Comprehensive Transportation Program supports ongoing operational and capital costs of community public transportation services. If no requests are received, the proposed program will be submitted.

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

CERTIFICATION OF PROVIDER

I hereby certify that I am the City Manager and duly authorized representative of City of Lawrence, Public Transit Department, whose address is City Offices, 6 East 6th, PO Box 708, Lawrence, KS 66044-0708 and that neither I nor the above Provider I here represent has:

(a) employed or retained for the payment of a commission, percentage, brokerage, contingent fee, or other consideration, any person (other than a bona fide employee working solely for me or the above Provider) to solicit or secure this agreement.

(b) agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or

(c) paid, or agreed to pay, to any firm, organization of persons (other than a bona fide employee working solely for me or the above Provider) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Secretary of Transportation of the State of Kansas in connection with this agreement and is subject to State and Federal laws, both criminal and civil.

(Date)

David L. Corliss, City Manager

CERTIFICATION OF THE SECRETARY OF TRANSPORTATION

I hereby certify that I am the Secretary of Transportation of the State of Kansas and that the above Provider or their representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the above referenced firm in connection with this agreement, and is subject to applicable State and Federal laws, both criminal and civil.

(Date)

Secretary of Transportation
for the State of Kansas

BY: Joel H. Skelley
State Multimodal Planner

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) **Compliance with regulations:** The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) **Nondiscrimination:** The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) **Solicitations for Subcontractors, including Procurements of Material and Equipment:** In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- 4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- 5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- 6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
 - (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- 7) Disadvantaged Business Obligation
 - (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.
 - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
 - (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant 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 the recipient deems appropriate.
- 8) Executive Order 12898
 - (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.
- 9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.