



RideKC
STREETCAR[™]

REQUEST FOR QUALIFICATIONS/PROPOSALS

CONTRACT SECURITY SERVICES

RFP Issuance Date: June 10th, 2024

RFP Due Date: June 28th, 2024 at 2:00pm CST

KANSAS CITY STREETCAR AUTHORITY

REQUEST FOR QUALIFICATIONS AND PROPOSAL (RFQ/P)

CONTRACT SECURITY SERVICES

Section 1. INTRODUCTION

The Kansas City Streetcar Authority (KCSA) is seeking proposals from qualified Contractors to provide uniformed security service for support of Kansas City Streetcar service and operations along an operational and planned 6.5-mile streetcar route stretching from Berkley Riverfront to UMKC, in addition to KCSA and City of Kansas City, Missouri Streetcar facilities located at 600 E. 3rd Street, a planned facility at 38th and Baltimore, and a planned office at Union Station.

This document is a Request for Proposal (RFQ/P) for the services described below and does not obligate KCSA to accept responses from eligible Contractor. The RFP establishes minimum requirements a Contractor must meet in order to be eligible for consideration as well as information to be included in the bid response.

Carefully examine the specifications, conditions and limitations. The selection of the successful Contractor will be made based on KCSA evaluation and determination of the relative ability of each Bidder to deliver quality service in a cost-effective manner.

The following specific qualifications criteria will be evaluated and must be addressed in the proposal:

1. Company History and Organization
2. Management Approach
3. Training Programs
4. Cost Proposal and Invoicing
5. Computer Management System
6. Value Added Features
7. Total Quality Management Program
8. Insurance
9. References

KCSA is not obligated to accept the lowest bid and reserves the right to reject any and all bids or amend the scope of the project. All of the proposing Contractors must be duly licensed or otherwise have the ability to perform work in accordance with all governing local authorities and to the satisfaction of those authorities.

Section 2. SUBMISSION OF PROPOSALS

Responses to this RFQ/P are due by 2 pm on Friday, June 28th and should be sent via e-mail to info@kcstreetcar.org with the subject "KCSA Contract Security RFP/Q". A confirmation reply will be provided upon receipt. Late submittals will be rejected.

All submissions shall include the following:

- Contact Information
 - Company Name
 - Company Address
 - Company City, State Zip
 - Agency Contact (Name and Title)
 - Contact Phone Number
 - Contact Email
- Submission Requirements as outlined in Section V
 - Company History and Organization
 - Management Approach
 - Training Programs
 - Cost Proposal and Invoicing
 - Computer Management System
 - Value Added Features
 - Total Quality Management Program
 - Insurance
 - References

Any questions regarding this RFP should be emailed to info@kcstreetcar.org, by 1 pm on June 14th.

Contractors may not contact other executives, board members, managers or employees of KCSA without permission of the manager of the RFP process.

Section 3. CONTRACT TERM

The term of this contract shall be for a one-year period unless terminated by either party with thirty (30) days written notice, with automatic annual extensions, inclusive of escalation rates provided and agreed to in a related executed service contract.

Section 4. SCOPE OF SERVICES

This project includes 693 hours (4 FTEs) of uniformed security service per month, as base level of service, with at a minimum one available vehicle. Options will be required for additional full-time and hourly part-time support subject to agency request and agreement by all parties.

Base service hours would be deployed as follows:

- 693 hours per month (base scope)
 - Streetcar route and station stop platform patrol
 - Streetcar on-board patrol
 - KC Streetcar facility patrol

Contractor shall provide uniformed security services along the streetcar alignment and in and around streetcar properties as indicated per specifications. Contract security personnel will provide a variety of service, implementing KC Streetcar's security objectives according to policies and procedures which may include but is not limited to the following general tasks:

- Stationary and roving vehicle patrols of streetcar alignment, stops, and on-board streetcar vehicles
- On-car or on-route response to a reported streetcar safety or security observation or occurrence
- Roving foot patrols of exterior building and facility areas
- Incident and daily operating reports
- Responding as necessary to support other life safety duties as identified in post orders and standard operating procedures.

Contractor shall provide appropriate and necessary management and supervision for all Contractor's employees and shall be solely responsible for instituting and invoking disciplinary action of employees not in compliance with Contractor's rules and regulations, as well as any other policy established by the contracting parties.

Contractor shall ensure hiring, training and administration of motivated and professional employees that meet or exceed both Contractor's and KCSA's standards.

Contractor is responsible for the daily personal appearance of security personnel. Contractor shall provide seasonal uniforms and weather-appropriate protective clothing necessary to support continuous performance of contract requirements. Uniforms will be approved by KCSA.

Contractor shall agree to remove from the site, whenever required to do so by KCSA, any employee considered by KCSA to be unsatisfactory or undesirable to KCSA, within the limits of any applicable laws.

Contractor shall administer all cost accounting and billing relative to this contract.

Contractor shall respond as necessary to accommodate additional duty hours as may be requested by KCSA.

Section 5. INSTRUCTIONS TO BIDDERS- PROPOSAL REQUIREMENTS

Bidders are to address the following subjects in the proposal.

1. Company History and Organization

Provide a brief company history, mission statement and organizational summary. Explain ownership (private or public) and include brief biographical information regarding the personnel who would be directly responsible for the management and local supervision of this project.

2. Qualifications, Experience, and Project Approach

Describe your qualifications and experience, and specifically how your firm proposes to manage and support this project, including initial thoughts on optimal resource deployment and scheduling. Contractor must supply an Organization Chart depicting the structure of the local servicing office and regional support.

3. Training Programs

Describe in detail the training programs in place to support this project. Include the following:

- Pre-Assignment Training
- Job and Task Specific Training (OJT)
- Formal Continuous Training
- Annual Retraining and Recertification

Include the name, contract information (including email address) and qualifications of the local or regional trainer(s) who will conduct training for the KCSA and the manner in which the KCSA documents training, paper records, online, web accessible, etc.

4. Cost Proposal and Invoicing

Provide hourly billing rates and cumulative annual costs for each of the following for year 1, along with subsequent hourly and cumulative pricing for option years, 2, 3, 4, and 5:

- Management/Administrative/Overhead
- Security Officer - Armed
- Security Office - Unarmed
- Security Vehicle
- Total Year 1 contract costs (3 FTE's and 1 vehicle)
 - Option A - Armed Security
 - Option B - Unarmed Security

Propose invoicing frequency and procedures. All invoices will clearly identify costs and be accompanied by a report of security staffing deployed, and related activities conducted, during the related reporting period.

5. Data Collection and Technology

Describe data collection and technology applications and processes utilized to collect relevant data, quality control security services being provided, and/or enhance and improve processes. Summarize how such systems will benefit KCSA.

6. Value Added Features

Indicate features or programs not covered elsewhere in the response which are offered to enhance your firm's ability to effectively manage this project.

7. Total Quality Management Program

Outline administrative controls, plans and process to monitor and assure contract compliance of security services. Include methods of quality control, contract administration, audits, management inspection programs, conduct and job performance standards, corrective action planning and follow-up reporting.

8. Insurance

Bidder shall secure and maintain and shall ensure all of its subcontractors of every tier secure and maintain, from the earlier of commencement of work or the effective date of the Subcontract, at least the minimum insurance coverages and limits required by this Exhibit or, wherever any other requirement(s) would afford greater coverage than is required herein, any coverages or limits of liability specified in the Prime Contract or as required by law. Such coverage shall be maintained and, in the case of subcontractors, shall be caused to be maintained, until completion of the Work or its final acceptance, whichever is later, or for any longer period of time specified herein. The successful bidder shall carry and maintain, with respect to any work or service to be performed at KCSA facilities, insurance for the following:

- Employer's liability insurance with limits of at least \$1,000,000 for each bodily injury by accident, each bodily injury by disease, and annual aggregate.
- Commercial general liability ("CGL") insurance including coverage for damages because of property damage, bodily injury, personal and advertising injury, including those included in the products-completed operations hazard. Except as specifically approved by KCSA, such insurance shall not contain any limitations on the scope of coverage afforded by the base CG 00 01 form required above for property damage, bodily injury, and/or personal and advertising injury, unless specifically approved by KCSA. Such CGL insurance shall include the following minimum limits of liability:
 - Each Occurrence \$1,000,000
 - Products/Completed Ops Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - General Aggregate \$2,000,000
- Automobile liability insurance provided on an ISO CA 00 01 03 06 or later form with limits of at least \$1,000,000 per accident for bodily injury and property damage and applying on an "any auto" or ISO "1" basis, including coverage for all vehicles used in connection with the Work, and including uninsured and underinsured motorist coverage, coverage for loading and unloading, and medical payment protection. Excess-umbrella Insurance, including terrorism coverage.
- Commercial umbrella or commercial excess liability insurance providing coverage excess to, and at least as broad as, the CGL, employer's liability, and automobile liability insurance detailed above in sections 1.2, 1.3, and 1.4. Coverage shall "drop down" for defense and indemnity in the event of exhaustion or insolvency of the underlying insurance. Bidder shall carry limits for this insurance of at least \$5,000,000 per occurrence and in the aggregate. Such policy shall provide that separate aggregate and per occurrence limits of the required amounts are available for the Operations. Such coverage shall explicitly provide that it applies on a primary and non-contributory basis with respect to any coverage on which an additional insured or indemnified party is a named insured.
- Professional liability insurance providing coverage for security errors and omissions of \$5,000,000.

Include a sample Certificate of Insurance including limits with the response. All policies and certificates shall provide for thirty (30) days notification to KCSA in the event of cancellation, reduction in limits or changes in coverage. Each insurer providing insurance coverage as

required in this Exhibit shall be a licensed, admitted insurer authorized to issue such coverages in the state in which the Project is located, and shall have an A.M. best rating of "A- VI" or better. KCSA, in its sole discretion, shall have the right to reject any insurance company selected by Bidder.

All insurance required by this Exhibit (excluding Workers' Compensation and Professional Liability insurance only) shall name the following parties as additional insureds: Owner, KCSA, and each of their parents, members, affiliates, lenders, directors, officers, representatives, agents, and employees, all parties required to be indemnified by this Subcontract, and all other parties reasonably requested by KCSA (hereinafter, collectively the "Additional Insureds"). All policies (including primary, excess, and/or umbrella) shall state that the insurance provided to the Additional Insureds is primary and non-contributory to any other insurance or self-insurance maintained by or available to the Additional Insureds, include cross liability coverage, and include a waiver of subrogation.

9. References

Provide at least three (3) client references whose facilities are comparable in size, profile and security service hours to KCSA. Include KCSA name, address, contact person and contact number.

10. Disadvantaged Business Enterprise (DBE) Requirements and Participation

KCSA encourages all qualified businesses to submit letters of interest as prime contractors, subcontractors or joint ventures. Women and/or minority owned business are encouraged to submit proposals. DBE (Disadvantage Business Enterprise) firms must be certified by the Kansas and/or Missouri Departments of Transportation or the City of Kansas City, Missouri in order to be counted as participation toward any established DBE Goal.

11. Required local, state, and federal assurances.

Section 6. Selection

Following conclusion of the solicitation term KCSA will evaluate qualified proposals and provide formal notification of any related conclusions.

If necessary, a short list, of not more than three (3) proposers and/or proposer teams will be selected by KCSA. Short-list proposers should be available for interviews and/or presentations prior to the selection of a contractor.

The KCSA reserves the right to request additional information from any or all of the proposers. Negotiations by the KCSA will not be deemed a counteroffer or rejection of any original proposal.

The final selection of a contractor is contingent upon approval by KCSA's Board of Directors. KCSA reserves the right to negotiate a contract, including a scope of work, and contract price, with any proposers or other qualified party.

This Request for Proposal does not commit KCSA to award a contract, to pay any cost incurred in preparation of a response to this Request, or to procure or contract for services or supplies. KCSA reserves the right to accept or reject any and all responses received as a result of this Request, or cancel this Request in part or in its entirety if it is in the best interests of KCSA to do so. Proposers shall not offer any gratuities, favors, or anything of monetary value to any officer, employee, agent, or director of KCSA for the purpose of influencing favorable disposition toward either their proposal or any other proposal submitted as a result of the Request for Proposal.

KCSA reserves the right to amend, consolidate, expand, cancel, delete, or request additional consulting services for one or more of the project's Scope of Work activities if KCSA deemed that such activity is advantageous to KCSA and the successful completion of the project. KCSA reserves the right to suggest to any or all proposers to the Request for Proposal that such proposers form into teams of consulting firms or organizations deemed to be advantageous to KCSA in performing the Scope of Work. KCSA will suggest such formation when such relationships appear to offer combinations of expertise or abilities not otherwise available. Proposers have the right to refuse to enter into any suggested relationships.

The KCSA reserves the right to award additional contracts for related services or subsequent Project phases to the selected team.

Proposal Evaluation Criteria

Stated evaluation criteria will assist the KCSA and the selection committee in evaluating and selecting the most qualified team for this project. The selection committee will evaluate proposals on the following:

- A. Qualifications and Experience
- B. Approach & Understanding
- C. Project Management, training, and staffing.
- D. References and Work Experience

On-Site Presentations

The project selection team may require oral presentation of those firms identified on the proposer's short list. Presentations will be held at KCSA or a site designated by KCSA.

Contract Award

KCSA will notify the selected candidate by telephone, e-mail and in writing. Following verbal notification, KCSA will negotiate a standard professional service agreement with the selected

candidate. The selected candidate's proposal will be incorporated by reference in the contract. Additionally, KCSA will notify, in writing, the candidates who are not selected.

Protest Procedures

During this solicitation for proposals and the selection process, a proposer (bidder of offer or whose direct economic interest would be affected by the award of the contract) may file a protest when in the proposer's opinion, actions were taken by KCSA staff and /or the selection committee which could unfairly affect the outcome of the selection procedure. All protests should be in writing and directed to Mr. Tom Gerend, Executive Director, Kansas City Streetcar Authority, tgerend@kcstreetcar.org. Protests should be made immediately upon occurrence of the incident in question but no later than three (3) days after the proposer receives notification of the outcome of the section procedure. The protest should clearly state the grounds for such a protest.

Upon receipt of the protest, KCSA's Executive Director will review the actual procedures followed during the selection process and the documentation available, in consultation with the KCSA Board Chair. The KCSA Executive Director will respond to the related proposer within 30 days of notification of the appeal, communicating final determinations.

NOTICE TO BIDDERS: Example of Required Contract Requirements

1. 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.

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

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

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.

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

2. CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times be aware and comply with all applicable Federal Transit Administration regulations, policies, procedures and directives, including without limitation, those listed directly or by reference in the Agreement between the Authority and FTA (FTA MA (26) dated October 1, 2019), 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.

3. 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 KCSA, 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

4. DEBARMENT AND SUSPENSION CERTIFICATION

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 Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180.

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.

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.

The Contractor agrees to provide KCSA 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. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

- A. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- B. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
- C. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
- D. Ensure that only firms that fully meet 49 CFR Part 26 eligibility are permitted to participate as DBE's;
- E. Help remove barriers to the participation of DBE's in DOT assisted contracts;
- F. To promote the use of DBE's in all types of federally assisted contracts and procurement activities; and
- G. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises (DBEs) in Department of Transportation Financial Assistance Programs.

The Contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR. Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as KCSA 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)).

The Contractor may not substitute, remove or terminate a DBE subcontractor without KCSA's prior written consent. Written consent of termination may only be given if the Contractor has demonstrated good cause. Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to KCSA, of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor must give the DBE five days to respond to the Contractor's notice and advise KCSA and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCSA 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.

Good Cause. Good cause includes the following circumstances:

- A. The listed DBE subcontractor fails or refuses to execute a written contract; or
- B. The listed DBE subcontractor fails or refuses to perform the work to its normal industry standards. Provided, however, that the good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor; or
- C. The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
- D. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
- E. 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
- F. The DBE subcontractor is not a responsible contractor; or
- G. The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
- H. The listed DBE is ineligible to receive DBE credit for the type of work required;
- I. A DBE 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 KCSA to terminate the DBE subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the Prime Contractor can substitute another DBE or non-DBE contractor.

Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to KCSA, of its intent to request to terminate and/or substitute, and the reason for the request. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the KCSA and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCSA 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.

Transit Vehicle Manufacturers (TVMs) must certify that it has complied with the requirements of 49 C.F.R. part 26.49 and is on FTA's certified list of TVMs that have submitted a goal methodology to FTA that has been approved or has not been approved at the time of this Contract.

6. 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.

7. DISPUTE RESOLUTION

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 KCSA's Executive Director, who shall reduce the decision to writing and mail or otherwise furnish a copy to the Contractor. The determination of the of the Executive Director shall be final and conclusive 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 KCSA, the Contractor shall proceed diligently with performance in accordance with the Executive Director's decision.

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 KCSA 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.

8. ENVIRONMENTAL REGULATIONS

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 KCSA. KCSA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office. Required if over \$100,000

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 KCSA. The Contractor understands that KCSA will in turn, report each violation as required to assure notification to FTA and the appropriate U.S. EPA Regional Office. Required if over \$100,000

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.

9. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

Pursuant to 48 CFR Parts 1, 4, 9, 12 and 52 the Contractor affirmatively represents and certifies that it, nor any of its directors, officers, principals, or agents:

- A. are delinquent in paying any federal tax liability;
- B. have not been convicted of any felony criminal violation under any Federal law within the preceding 24 months; or

- C. have not more than 90 days prior to certification been notified of any unpaid federal tax assessment for which the liability remains unsatisfied.

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).

10. FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S DOT regulations, "Program Fraud Civil Remedies," 49 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.

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.

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.

11. 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 requests that would 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.

12. LOBBYING RESTRICTIONS

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.

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).

13. PATENTS AND RIGHTS IN DATA AND COPYRIGHTS

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.

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 KCSA, until such time as KCSA 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":
 - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by KCSA 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 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 KCSA 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 KCSA or to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to KCSA or to the Federal Government under any patent.
- F. Data developed by the KCSA 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 KCSA 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.

14. 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 KCSA in the performance of any contract, subcontract or other contractual instrument resulting from a solicitation or RFP that have been manufactured by a supplier (including any subsidiary or affiliate of those entities) that is considered prohibited or not approved under this regulation. This statute is not limited to entities that use end-products produced by those companies; and also covers the use of any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

15. RECORD RETENTION AND ACCESS

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

The Contractor shall permit KCSA, 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.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed, and to include this clause in all subcontracts.

16. REQUESTS FOR PAYMENT – SUBCONTRACTOR PAYMENTS

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.

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 KCSA.

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 KCSA on or before each payment request, of any situation in which scheduled subcontractor payments have not been made.

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.

The Contractor agrees that the Authority may provide appropriate information to interested subcontractors who inquire about the status of Authority payments to the Contractor.

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.

17. SEAT BELT USE POLICY

Contractor agrees to comply with terms of Executive Order No. 13043 and 13513, "Increasing Seat Belt Use in the United States," 23 U.S.C. part 402; and U.S. DOT Order 3902.10. Contractor is encouraged to include those requirements in each subcontract awarded for work relating to this Agreement.

18. SUBCONTRACTORS

- A. Subcontractor Approval. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of KCSA. 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 KCSA as set forth herein. The Contractor is responsible for managing and directing the work of the Subcontractors and for all actions of subcontractors performing work under this Contract.
- B. DBE Subcontractor Employment. See Disadvantaged Business Enterprise Program provisions.
- C. Subcontractor Payments. See Requests for Payment Provisions.
- D. Adequate Provision(s) in Subcontract(s). Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete agreement. In addition, all subcontracts shall contain contractual provisions or conditions that allow for:
 - a. Administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, including sanctions and penalties as may be appropriate.
 - b. Termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
 - c. The following provisions if included in this Contract:
 - i. ADA Access Requirements
 - ii. Assignment (Piggybacking)
 - iii. Changes

- iv. Civil Rights
 - v. Conflicts of Interest (Organizational)
 - vi. Debarment and Suspension
 - vii. Disadvantaged Business Enterprise (DBE)
 - viii. Disclaimer of Federal Government Obligations or Liability
 - ix. Dispute Resolution
 - x. Environmental Regulations
 - xi. Federal Changes
 - xii. Federal Tax Liability and Felony Convictions
 - xiii. Fraud and False or Fraudulent Statements or Related Acts
 - xiv. Incorporation of FTA Terms
 - xv. Lobbying
 - xvi. Patents and Rights in Data and Copyrights
 - xvii. Privacy Act Requirements
 - xviii. Prohibition on Certain Telecommunications and Video Surveillance Equipment
 - xix. Record Retention and Access
 - xx. Requests for Payment
 - xxi. Seat Belt Use Policy
 - xxii. Subcontractors
 - xxiii. Termination
 - xxiv. Texting While Driving and Distracted Driving
 - xxv. United States Service Preference
- E. The Contractor will take such action with respect to any subcontractor as KCSA or the U.S. Department of Transportation may direct as means of enforcing such provisions of this contract.
- F. KCSA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included.
- G. KCSA may perform random audits and contact minority subcontractors to confirm the reported DBE participation.

19. TERMINATION

Termination for Convenience. The KCSA may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in KCSA'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.

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 KCSA to terminate the agreement.

20. TEXTING WHILE DRIVING AND DISTRACTED DRIVING

Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. Section 402 note, and U.S. 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.

21. UNITED STATES SERVICE PREFERENCE – FLY AMERICA

In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118 - the “Fly America” Act), and in accordance with the General Service Administration’s regulations at 41 CFR Part 301-10, recipients and subrecipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier (based on the reasons found in FAR § 47.403) and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation and exceed \$150,000.