CCO Form: TC09
Approved: 06/96 (RMH)
Revised: 08/16 (MWH)
Modified:

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
PUBLIC TRANSIT OPERATING
ASSISTANCE GRANT AGREEMENT

THIS AGREEMENT is entered into between the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Joplin (hereinafter, "Grantee").

WITNESSETH:

WHEREAS, the purpose of this Agreement is to provide financial assistance to the Grantee as appropriated from the State Fund and to set forth the conditions upon which the assistance will be provided;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations in this Agreement, the parties agree as follows:

(1) SCOPE OF WORK: The Grantee shall provide general public transportation in accordance with the "Missouri State Transit Assistance Application" which is attached and made a part of this Agreement as Attachment A.

(2) AMOUNT OF GRANT: The Commission awards the Grantee the sum of seventeen thousand six hundred eighty two dollars ($17,682) during the period from July 1, 2016, to June 30, 2017.

(3) PERFORMANCE OF AGREEMENT: The Grantee shall immediately notify the Commission in writing of any condition or event which may significantly affect its ability to perform the required activities in accordance with the provisions of this Agreement.

(4) RETENTION AND AUDIT OF RECORDS:

(A) The Grantee shall maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its representatives during the period of this Agreement and any extension thereof, and for three (3) years after the date of final payment made under this Agreement.

(B) The Grantee shall submit to the Commission such data, reports, documents, and other information relating to the Grantee's activities as the Commission may require at any time.

(C) At any time during or after the grant period provided in this Agreement, the Commission may inspect, copy and audit all records possessed by or available to the Grantee, which may be pertinent to this Agreement. If the Commission notifies the Grantee of its specific intention to inspect, copy or audit any of these records, then the Grantee shall retain all of the records pertinent to this Agreement until the Commission notifies the Grantee that it has completed its inspection, copying or audit.

(5) THIRD PARTY CONTRACTS:

(A) Prior to execution by either party, the Grantee shall submit to the Commission for review, comment and approval all contracts for services included in the Public Transportation Budget and Service Statement to be provided to the Grantee by a third party.

(B) The Commission shall not be liable to contractors or subcontractors of the Grantee or any other person not a party to this Agreement in connection with the performance of the project.

(6) PAYMENTS:

(A) Limitations on Commission Contribution: Funds made available to the Commission and the Grantee are subject to appropriations made by the General Assembly. In the event state funds available to the Commission are reduced so that the Commission is incapable of completely satisfying its obligations to all the Grantees for the current state fiscal year, the Commission may recompute and reduce this grant. When added to federal operating assistance funds available and applied to the same operating period, the maximum Commission payment on any monthly or quarterly request shall not cause the total of state and federal operating assistance to exceed the amount of operating assistance for which the Grantee would have qualified in federal funds had additional federal funds been available.

(B) Progress Payments: Progress payments, based upon actual allowable costs, for not less than one (1) month and for no more than three (3) months may be made upon receipt of an itemized invoice from the Grantee in an appropriate format approved by the Commission. The itemized invoice shall be reviewed by the Commission prior to payment and must include a certification that costs have been incurred in the performance of the Agreement and a record of the actual costs. Any costs deemed ineligible for reimbursement by the Commission in accordance with the terms of this Agreement shall be deducted from the itemized invoice before payment is made. Any rejected or unaccepted costs shall be borne by the Grantee.

(C) Availability of Funds: The Commission's duty to pay the Grantee as provided in this Agreement is subject to the availability of funds appropriated by the Missouri General Assembly to and from the State Transportation Fund and any subsequent directives mandated by the Governor regarding the withholding of appropriations.

(7) ASSIGNMENT: The Grantee shall not assign, transfer or delegate any interest in this Agreement, or its performance of any work required by this Agreement, without the prior written consent of the Commission.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the Grantee shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Grantee's wrongful or negligent performance of its obligations under this Agreement.

(B) The Grantee will require any contractor procured by the Grantee to work under this Agreement:

(1) To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities ($500,000 per claimant and $3,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) RIGHT OF COMMISSION TO TERMINATE AGREEMENT: Upon written notice to the Grantee, the Commission may suspend or terminate all or part of the financial assistance provided for in this Agreement when the Grantee is, or

has been, in violation of any of the terms of this Agreement.

(10) COMMISSION'S REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(11) NONDISCRIMINATION CLAUSE: The Grantee shall comply with all state and federal statutes applicable to the Grantee relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq*.); and with every applicable provision of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq*.).

(12) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Grantee shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(13) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or respecting its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(14) NONSOLICITATION: The Grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Grantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, 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 Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

(15) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment or supplemental agreement signed and approved by the duly authorized representatives of the Grantee and the Commission.

(16) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(17) LACK OF WAIVER: In no event shall payment of grant funds to the Grantee by the Commission constitute or be construed as a waiver by the Commission of any breach of covenants, or any default which may exist on the part

of the Grantee, and the making of any such payment by the Commission while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Commission with respect to such breach or default.

(18) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the Grantee:
City of Joplin
123 S. Main
Joplin, MO 64801
Facsimile No.: 417-625-4747

(B) To the Commission:
Missouri Department of Transportation
105 W. Capitol Ave.
Jefferson City, MO 65102
Facsimile No.: 573-751-6555

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the last date written below.

Executed by the Grantee this ____ day of _____, 20____.

Executed by the Commission this ____ day of _____, 20____.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

_____
Director, Multimodal Operations

Attest:

_____
Secretary to the Commission

Approved as to Form:

_____
Counsel for the Commission

GRANTEE
City of Joplin

By _____

Title _____

Attest:

By _____

Title _____

Approved as to Form:

_____
Counsel

_____
Ordinance Number