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CFDA Title: Section 5339 - Bus and Bus Facilities Formula Program
Federal Agency: Federal Transit Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
BUS AND BUS FACILITIES, SECTION 5339
CAPITAL ASSISTANCE GRANT AGREEMENT

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

WITNESSETH:

WHEREAS, the Grantee has applied to the Commission for a grant of funds made available to the Commission under Title 49 United States Code (hereinafter, "USC") 5339, (herein referred to as "Section 5339") to defray a portion of the costs of a general public transportation project carried out by the Grantee; and

WHEREAS, the Commission has awarded funds available pursuant to Section 5339 to the Grantee with the understanding that such funds will be used for projects pursuant to this Agreement for the purposes specified in Grantee's application for Section 5339 assistance (Appendix A, which is attached hereto and incorporated herein by this reference).

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

(1) PURPOSE AND SOURCE OF FUNDS: The purpose of this Agreement is to assist the Grantee in financing the project's expenses that are eligible for federal financial assistance.

(A) Such capital costs are estimated to be the amount appearing in the Grantee's estimated capital project budget (Appendix A).

(B) The Commission will make a grant from available federal funds in an amount not to exceed eighty percent (80%) of the capital costs in a manner consistent with the administrative rules of the United States Department of Transportation (hereinafter, "USDOT") and the Federal Transit Administration (hereinafter, "FTA") Circular: 5100.1, dated May 18, 2015.

(C) The Grantee will provide funds from sources other than (a) unauthorized restricted federal funds; (b) receipts from the use of the project facilities and equipment; or (c) revenues of the general public transportation system in which such facilities and equipment are used, in an amount sufficient together with the grant pursuant to this Agreement, to pay the actual project cost.

(D) The Commission's maximum contribution to costs of the approved project is eighty percent (80%) of actual cost or one hundred forty six thousand five hundred fifty two dollars ($146,552), whichever is less. Costs in the project budget are estimates, and funds not necessary to carry out the project may be withdrawn by the Commission upon written notification to the Grantee.

(2) SCOPE OF WORK AND BUDGET: The Grantee will undertake and complete the project specified in the approved project application and budget (Appendix A).

(3) USE OF PROJECT FACILITIES AND EQUIPMENT: The following conditions are applicable to project facilities and equipment financed under this Agreement:

(A) The project facilities and equipment shall be used to provide general public mass transportation service within the Grantee's transportation service area, substantially as described in the project description (Appendix A). The Grantee agrees to observe the property management standards as set forth in Title 2 Code of Federal Regulations (hereinafter, “CFR”) Part 200, as now or hereafter amended in order to protect the interest of the USDOT. Exceptions to the requirements of this paragraph must be specifically approved by the Commission.

(B) If during the period, any project facilities/equipment are not used in mass transportation service, whether by planned withdrawal or casualty loss, the Grantee shall immediately notify the Commission and shall remit to the Commission a proportional amount of the fair market value, if any, of the property, which shall be determined on the basis of the ratio of the grant made by the Commission to the actual cost of the project. Fair market value shall be deemed to be the value of the property as determined by competent appraisal at the time of such withdrawal from use or misuse, or the net proceeds from public sale, whichever is approved by the Commission.

(C) 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 shall be considered fair market value. In no event is salvage value to be considered fair market value.

(D) The Grantee shall keep satisfactory records with regard to the use of the property and submit to the Commission upon request such information as is required in order to assure compliance with this section and shall immediately notify the Commission in all cases in which project facilities/equipment are used in a manner substantially different from that described in the project description.

(E) The Grantee shall maintain in amount and form satisfactory to the Commission such insurance as will be adequate to protect project facilities/equipment throughout the period of required use.

(F) At the beginning of each calendar year, the Grantee shall also submit to the Commission a certification that the project facilities/equipment are still being used in accordance with the terms of paragraph (3) of this Agreement and that no part of the local contribution to this cost of the project has been refunded or reduced, except as authorized above.

(4) PROJECT TIME PERIOD: The project period shall be from November 15, 2016 until the equipment is disposed of in accordance with paragraph (28).

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

(6) LABOR PROTECTION: The Grantee agrees to accept and abide by the terms and conditions of 49 U.S.C. 5333(b), as amended, (hereinafter "5333(b)"), absent a waiver by the United States Department of Labor.

(A) The Grantee agrees that it is the exclusive party responsible under the terms of the 5333(b) Warranty and that the State of Missouri, acting through the Commission, assumes no obligation under the terms of the 5333(b) Warranty.

(B) The Grantee shall be solely financially responsible for the application of the conditions of 5333(b).

(7) AUDITS, INSPECTION AND RETENTION OF RECORDS: The Commission and the FTA, or any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as the Commission or the FTA deems necessary at no charge to the Commission and/or its designees or representatives, all of the Grantee's records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit under the guidelines of 2 CFR Part 200, examine and make excerpts or transcripts from such records and other matters covered by this Agreement. Such rights shall last for three (3) years beyond the longer of the following periods: (a) the period during which any property acquired with funds provided pursuant to this Agreement is used for purposes for which the federal financial assistance is extended, or for another purpose involving the provisions of similar services or benefits; or (b) the period during which the Grantee retains ownership or possession of such property; or (c) the end of the project time period specified in paragraph (4). All documents, accounting records and other material pertaining to costs incurred in connection with the project shall be retained by the Grantee for three (3) years from the date of final payment to facilitate any audits or inspections.

(8) AUDIT REQUIREMENTS: If the Grantee expends seven hundred fifty thousand dollars ($750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the Grantee expends less than seven hundred fifty thousand dollars ($750,000) a year, the Grantee may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(9) PROPERTY MANAGEMENT STANDARDS: The Grantee's services rendered and reimbursable expenses incurred shall be those allowable under 2 CFR Part 200.

(10) REPORTS: The Grantee shall advise the Commission regarding the progress of the projects at such times and in such a manner as the Commission may require, including, but not limited to, meetings and interim reports.

(11) INSURANCE: The Grantee shall maintain in amount and form satisfactory to the Commission such insurance as will be adequate to protect it in case of accident. If permitted by law, the Grantee may maintain a self-insurance program in lieu of purchasing insurance coverage. The Grantee shall verify compliance with this section by submitting a copy of its certificate of insurance, or if self-insured, a copy of its self-insurance plan.

(12) 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.

(13) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the Grantee agrees as follows:

(A) Civil Rights Statutes: The Grantee shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC 2000d and 2000e, *et seq*.), as well as any applicable titles of the Americans with Disabilities Act. In addition, if the Grantee is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the Americans with Disabilities Act.

(B) Administrative Rules: The Grantee shall comply with the administrative rules of the USDOT relative to nondiscrimination in federally-assisted programs of the USDOT (49 CFR Subtitle A, Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The Grantee shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Grantee shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the Grantee. These apply to all solicitations either by competitive bidding or negotiation made by the Grantee for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the Grantee of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The Grantee shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant to this Agreement, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the USDOT to be necessary to ascertain compliance with other contracts, orders and instructions.

Where any information required of the Grantee is in the exclusive possession of another who fails or refuses to furnish this information, the Grantee shall so certify to the Commission or the USDOT as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the Grantee fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the Grantee complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The Grantee shall include the provisions of paragraph (13) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the USDOT. The Grantee will take such action with respect to any subcontract or procurement as the Commission or the USDOT may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the Grantee becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Grantee may request the United States to enter into such litigation to protect the interests of the United States.

(14) SECTION 504 ASSURANCES AND THE AMERICANS WITH DISABILITIES ACT OF 1990: The Grantee shall comply with all the requirements imposed by the USDOT regulations implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990 (and any subsequent amendments) set forth in 49 CFR Subtitle A, Parts 27, 37, and 38, as well as all applicable regulations and directives issued pursuant thereto by other federal departments or agencies.

(15) DISADVANTAGED BUSINESS ENTERPRISE: The Grantee agrees to either prepare and submit for Commission approval a Disadvantaged Business Enterprise plan as defined in 49 CFR Subtitle A, Part 26 or to be included in the Commission's Disadvantaged Business Enterprise goals. Should the Grantee opt to be included in the Commission's Disadvantaged Business Enterprise goals, the Grantee will submit semi-annual reports to the Commission documenting its compliance with the Commission's goals.

(16) INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS: No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising from this Agreement.

(17) CHARTER SERVICE OPERATIONS:

(A) Charter Service Operations: The Grantee shall comply with 49 USC 5323(d) and 49 CFR Subtitle B, Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions of 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

(B) School Bus Operations: The Grantee shall comply with 49 USC 5323(f) and 49 CFR Subtitle B, Part 605, which provides that recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, the Grantee may not use federally funded equipment, vehicle, or facilities.

(18) REIMBURSEMENT CONDITIONS: Reimbursement by the Commission is subject to the following conditions:

(A) Progress payments, based upon actual allowable costs, for not less than one (1) month 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 or FTA 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.

(B) Requisitions requesting reimbursement for capital expenses shall be in accordance with the approved estimated capital project budget (Appendix A).

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

(20) SUBCONTRACTS: None of the project activities described in Appendix A shall be subcontracted without the prior written consent of the Commission. All subcontracts shall be subject to the terms and conditions of this Agreement. The Grantee, however, shall remain responsible for the proper completion of the project notwithstanding any subcontract.

(21) TERMINATION: This Agreement may be terminated upon any of the following conditions:

(A) If for any cause, the Grantee shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations contained herein, the Commission shall have the right to terminate this Agreement if such default or violation is not corrected within twenty (20) days after written notice is sent to the Grantee describing such default or violation.

(B) The Commission may terminate this Agreement without recourse in the event that, for any reason, federal funds are not appropriated, allotted, or available to the Commission for the purpose of meeting the Commission's obligation hereunder. The Commission will provide written notice of such termination to the Grantee at least five (5) days prior to the effective date of termination.

(C) Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least forty-five (45) days in advance of such termination date.

(22) SOURCE OF COMMISSION FUNDS: The obligation of the Commission for financial assistance in the project is contingent upon this Agreement being approved by the FTA and the USDOT, and upon federal funds being allocated to and approved for the project.

(23) 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.

(24) SECURITY: The Grantee agrees that upon purchases with funds provided under this Agreement of any equipment for which a title certificate may be obtained or is required under the laws of the State of Missouri that the Grantee will execute such documents as may be necessary to protect and secure a lien upon equipment in favor of the Commission. Any and all fees required to be paid to secure and maintain said lien shall be paid by the Grantee.

(25) PURCHASE OF VEHICLES AND/OR PROJECT EQUIPMENT: The Commission reserves the right to procure all new vehicles on behalf of Grantee unless waived. The Commission reserves the right to review and concur in the Grantee's specifications and advertisement for purchase of transit equipment. The Commission will concur in award of bid by the Grantee prior to execution of the Agreement between the Grantee or any bidder.

(26) NO WARRANTY:

(A) If the Commission opts to procure vehicles or equipment on behalf of the Grantee, the Commission makes no warranties, express or implied, to the Grantee with respect to such vehicles or equipment, including, but not limited to, any warranty of merchantability or fitness for a particular purpose. The Grantee's acceptance or use of the vehicles or equipment constitutes the Grantee's acknowledgement that the vehicles or equipment are in working condition at that time.

(B) The Grantee shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability 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 Commission's procurement of vehicles or equipment on behalf of the Grantee under this Agreement.

(27) BUY AMERICA: The Grantee agrees to abide by the provisions of the Buy America requirements of 49 CFR Subtitle B, Part 661.

(28) VEHICLE DISPOSITION REQUEST TO DISPOSE OF VEHICLE(S) OR EQUIPMENT: The Grantee is required to submit a written request for an inspection of the vehicle(s) or equipment they wish to dispose of, to be conducted by the Commission. This inspection will determine if the useful life of the vehicle(s) or equipment has reached minimum standards for vehicle useful life:

Vans – Straight, modified, sedans, lowered floor and mini vans	4 years and 100,000 miles
25' – 35' Light duty transit bus, Cutaways – body on van chassis	5 years and 150,000 miles
30' Medium duty transit bus	7 years and 200,000 miles
30' Heavy duty transit bus	10 years and 350,000 miles
35' – 40' Heavy duty bus and Transit buses	12 years and 500,000 miles

(A) Disposition Procedure: A Grantee may sell a vehicle to a third party through a variety of approved processes including:

1. A vehicle may be sold outright to a third party through a variety of approved processes, including advertised sealed bids, auto auction or the average of three (3) competent appraisals.

2. A vehicle may be sold by the Grantee to itself. In this case

the implicit price to be paid by the Grantee will be the average wholesale value of the vehicle as specified in the most recent National Automobile Dealers Association (NADA) Official Used Car Guide or The Official Bus Blue Book.

(B) Division of Disposition Proceeds: If a vehicle is sold outright to a third party, the Grantee may retain twenty percent (20%) of the proceeds plus two hundred twenty-five dollars ($225). The balance must be paid to the department within ten (10) working days.

If a Grantee sells a vehicle to itself, the Grantee must pay eighty percent (80%) of the wholesale value to the department within ten (10) working days.

(C) Replacement of Disposed Equipment: Vehicle(s) or equipment disposed of before requesting replacement by application for federal funding will not be considered eligible for replacement at a future time.

(D) Action Upon Termination: Upon termination of the project and cancellation of this Agreement under the provisions of the subsections of this section, control of all vehicles and equipment contained in Appendix A will revert ownership to the Commission and will be available for immediate transfer and reassignment. To that end, the Grantee will sign over and deliver title of the vehicle to the Commission within seven (7) days of Commission's mailing written notice of termination.

(29) COMMISSION 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.

(30) ASSIGNMENT: The Grantee shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(31) 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.

(32) 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 regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(33) CONFIDENTIALITY: The Grantee shall not disclose to third parties confidential factual matters provided by the Commission except as may be required by statute, ordinance, or order of court, or as authorized by the Commission. The Grantee shall notify the Commission immediately of any request for such information.

(34) 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, gift, 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 this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(35) SECTION 5339 STATE MANAGEMENT PLAN: The Grantee agrees to the terms and conditions of the Missouri Department of Transportation's §5339 State Management Plan.

(36) ASSIGNMENT OF CAPITAL EQUIPMENT: Appendix A lists the county or area where the capital equipment is assigned. If the Grantee becomes financially unable to operate within the assigned county, in the judgment of the Commission, the Grantee will relinquish the titles of the items in Appendix A to the Commission. The Commission will assist the Grantee in recovering twenty percent (20%) of the current fair market value, although it is not obligated to do so and may take possession of vehicles without doing so. Capital equipment, once assigned, cannot be reassigned to another county unless the Commission concurs. The Commission will be the first lien holder on all capital equipment unless waived.

(37) DRUG AND ALCOHOL TESTING: The Grantee agrees to: (1) establish a drug and alcohol testing program under 49 U.S.C. 5331; and (2) annually establish that Grantee is in compliance with 49 CFR Subtitle A, Part 40 and 49 CFR Subtitle B, Part 655 mandating drug and alcohol testing. Compliance with these regulations is a condition of receipt of FTA funds. In the event the Commission agrees to subsidize the cost of such testing, the Commission does not agree to accept liability for damages or injury caused to Grantee, Grantee's agent or third parties. Grantee agrees to indemnify and hold the Commission harmless for damages and injuries resulting from actions of the Grantee and Grantee's agents.

(38) RESTRICTION ON LOBBYING: The Grantee agrees to abide with the requirements of 31 USC Section 1352.

(39) ENERGY CONSERVATION: The Grantee 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 (42 USC 6321 et seq.).

(40) FEDERAL CHANGES: The Grantee shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the most recently issued FTA Master Agreement, as they may be amended or promulgated from time to time during the term

of this Agreement. The Grantee's failure to comply shall constitute a material breach of this Agreement.

(41) CLEAN AIR: The Grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC 7401 et. seq. The Grantee shall ensure that its contractor will report each violation to the Grantee. The Grantee will, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (hereinafter, "EPA") Regional Office. The Grantee also agrees to include these requirements in each contract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

(42) NO OBLIGATION BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION: The Grantee acknowledges and agrees that, notwithstanding any concurrence by the USDOT in or approval of the solicitation or award of the underlying contract, absent the express written consent by the USDOT, the USDOT is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Grantee or any other party pertaining to any matter resulting from the Agreement. The Grantee agrees that it will ensure that the contractor will include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

(43) CLEAN WATER: The Grantee agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 *et. seq*. The Grantee will require its contractor to report each violation to the Grantee and understands and agrees that the Grantee will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Grantee agrees that it will ensure that the contractor will agree to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

(44) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS:

(A) The Grantee acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR Subtitle A, Part 31, apply to its actions pertaining to this Project. The Grantee shall ensure that the contractor will certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Grantee further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the USDOT reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Grantee to the extent the USDOT deems

appropriate.

(B) The Grantee also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the USDOT under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC 5339 the Government reserves the right to impose the penalties of 18 USC 1001 on the Grantee, to the extent the Federal Government deems appropriate.

(C) The Grantee agrees to include the above two clauses in each of its contracts financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the contractor subcontractor who will be subject to the provisions.

(45) PRIVACY ACT:

(A) The Grantee agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 552a. Among other things, the Grantee agrees to obtain the express consent of the USDOT before the Grantee or its employees operate a system of records on behalf of the USDOT. The Grantee understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the Agreement.

(B) The Grantee also agrees to include these requirements in each of its contracts to administer any system of records on behalf of the USDOT financed in whole or in part with Federal assistance provided by FTA.

(46) INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS: The preceding provisions include, in part, certain Standard Terms and Conditions required by the USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by the USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 this Agreement. The Grantee shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause the Grantee to be in violation of the FTA terms and conditions.

(47) GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT): The Grantee agrees to comply with the requirements of the *Certification of Primary and Lower-Tier Participants Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion* as submitted with the grant application.

(48) COMPLIANCE WITH SECTION VIII OF FTA NATIONAL ITS ARCHITECTURE POLICY ON TRANSIT PROJECTS: In compliance with Section VII of "FTA National ITS Architecture Policy on Transit Projects" at 66 FR 1459, January 8, 2001, in the course of implementing an ITS project, the Grantee assures it will comply, and require any third party contractor to comply, with all applicable requirements imposed by Section V and Section VI of that notice.

(49) STATE AND LOCAL LAW DISCLAIMER: The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the Grantee's procurement documents, the Grantee should consult with their local attorney.

(50) DRUG-FREE WORKPLACE: The Grantee agrees to maintain a drug-free workplace for all employees and to have an anti-drug policy and awareness program in accordance with the Drug-Free Workplace Act of 1988 (41 USC 701 *et seq*.), as amended, and 49 CFR Part 32.

(51) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The Grantee shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 CFR Part 170.

(52) NON-EMPLOYMENT OF UNAUTHORIZED ALIENS: Pursuant to Section 285.530, RSMo., no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the State or by any political subdivision of the State to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall:

(A) By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. E-Verify is an example of a federal work authorization program. The business entity must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For business entities that are not already enrolled and participating in a federal work authorization program, E-Verify is available at http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

(B) By sworn affidavit, affirm that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. A copy

of the affidavit referenced herein is provided within this document, attached as Appendix B.

(53) SAFETY TRAINING: The Grantee shall comply with section 292.675 RSMo and will ensure that its contractors and subcontractors also comply with all applicable provisions.

(54) WAGE LAWS: The Grantee and its subcontractors shall pay the prevailing hourly rate of wages for each craft or type of worker required to execute this project work as determined by the Department of Labor and Industrial Relations of Missouri, and they shall further comply in every respect with the minimum wage laws of Missouri and the United States. Federal wage rates under the Davis-Bacon or other federal acts apply to and govern this Agreement also for such work which is performed at the jobsite, in accord with 29 CFR Part 5. Thus, this Agreement is subject to the "Contract Work Hours and Safety Standards Act", as amended (40 USC §3701, *et seq*.), and its implementing regulations. The Grantee shall take the acts which may be required to fully inform itself of the terms of, and to comply with, state and federal laws.

[Remainder of Page Intentionally Left Blank]

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

Executed by Grantee this _____ day of _____, 20__.

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

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

By _____

Title _____

Attest:

By _____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

GRANTEE

By _____

Title _____

Attest:

By _____

Title _____

Approved as to Form:

_____
Counsel

Ordinance No. _____
(if applicable)