

URBANIZED AREA
PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE KENTUCKY TRANSPORTATION CABINET
AND
LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT (LFUCG)
DUNS # 020428777

This **AGREEMENT** is made and entered into this the _____ day of _____, 20____, between the Commonwealth of Kentucky, Transportation Cabinet, party of the first part, hereinafter referred to as the **CABINET** and the Lexington Fayette Urban County Government (LFUCG) party of the second part, hereinafter referred to as the **RECIPIENT**.

WITNESSETH:

WHEREAS, Sections 5303 (Metropolitan Planning Program, CFDA #20.505) and Section 5304 (State Planning and Research Program, CFDA #20.505), of the Title 49, United States, Chapter 53, Fixing America's Surface Transportation Act (FAST Act): Federal Transit Administration provides funds to assist in providing public transportation; and,

WHEREAS, the **RECIPIENT** has executed and filed with the **CABINET** an Application(s) incorporated by reference and also considered as Attachment A, requesting Federal financial participation in a program of public transportation (hereinafter referred to as the **PROJECT**), **CABINET** financial participation, and Local financial participation in accordance with Attachment(s) B-5303, B-5304; and,

WHEREAS, the **CABINET** and the Federal Transit Administration (hereinafter referred to as **FTA**), have determined that the **PROJECT** is in accordance with the purpose of the Formula Grant Program(s); and,

WHEREAS, the **RECIPIENT** desires, in accordance with its approved unified planning work program (UPWP) and budget(s) to permit the **PROJECT** to include the planning and administration services; and,

WHEREAS, the **RECIPIENT** desires in accordance with said UPWP and/or application to provide a program of public transportation to include transportation administration and planning or to provide coordination of public transportation activities, technical

AGREEMENT should be construed to prevent the duration of the project from being changed by mutual agreement of the **CABINET** and the **RECIPIENT**.

Section 3 **Project Funding**

It is expressly understood that funds for this **PROJECT** are being provided through an appropriation authorized under applicable Sections 5303 & 5304 of the Federal Transit Act. This is not a Research and Development Grant. The total federal award for KY-2017-002-00 was \$1,009,291. The total amount of federal funds obligated to Lexington Fayette Urban County Government from KY-2017-002-00 in this agreement is \$48,400. It is the responsibility of the **CABINET** to obtain these funds from **FTA**. These funds may be authorized by either a single authorization or by a series of authorizations. The total cost of the **PROJECT** shall not exceed the amount indicated in the budget attached hereto as Attachment B, and made a part hereof unless approved in writing by the **CABINET**. The **RECIPIENT** agrees to provide local matching funds in the amount sufficient, together with the authorized funds, to assure funding for completion of the **PROJECT**. **PROJECT** costs are payable monthly by the **CABINET** upon presentation of invoices by the tenth of the following month, which should include explanations and justifications for such funds requisitioned. Invoices shall comply with the expense categories in Attachment B. Ten (10) percent of the final invoice may be withheld pending completion and acceptance of an audit as required in Section 11.

It is understood that the value and character of all "in-kind" services must be approved by the **CABINET** prior to being credited to the **PROJECT**. All "in-kind" services must meet both **CABINET** and **FTA** eligibility and applicability requirements for Section 5303 & 5304 funding and the Common Rule (49 CFR Parts 18 and 19).

It is further understood that since this **PROJECT** is to provide public transportation services, budget adjustments may be necessary and may be allowed if they do not exceed the total sum set out above, subject to the approval of the **CABINET**. In order for the **RECIPIENT** to be reimbursed for costs, which are not listed in Attachment B, the **RECIPIENT** must obtain written approval from the **CABINET**.

Section 4 **Allowable Costs**

The **PROJECT** costs referred to in this **AGREEMENT** shall be comprised of the allowable costs incident to the performance of the **PROJECT** less applicable credit, to be determined in accordance with the standards set forth in 49 U.S.C. Section's 5303 & 5304 and applicable FTA circulars, 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or other appropriate federal management circular. **PROJECT** costs will be in accordance with the approved line item budget in Attachment B.

the United States and Secretary of the United States Department of Transportation, or their authorized representatives, to inspect all **EQUIPMENT** and **PROPERTY** purchased by **RECIPIENT** as part of the **PROJECT**, all transportation services rendered by the **RECIPIENT** as part of the **PROJECT**, and all relevant **PROJECT** data and records. The **RECIPIENT** shall also permit the above named persons to review audits and working papers or audit the books, and accounts of the **RECIPIENT** pertaining to the **PROJECT**. **RECIPIENTS**, in accordance with OMB 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards are required to submit audit reports within 30 days after receipt of the auditor's report(s) to the Federal Audit Clearing House (FAC). In addition, two (2) original audit reports for each Fiscal Year that federal funds are expended under this **AGREEMENT** are to be submitted to the **CABINET** Office of Transportation Delivery, and postmarked within 30 calendar days after receipt of the Auditor's report or nine (9) months after the end of the Fiscal Year, whichever comes first in accordance with 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. If the due date falls on a Saturday, Sunday or Federal Legal Holiday, the audit is due the next business day. The **CABINET** Office of Transportation Delivery will utilize the issue date on the Independent Audit Report Letter as the receipt date unless the **RECIPIENT** provides evidence that the Audit Report was actually received (via hand delivery, Postal Mail or E-mail) on a different date. A **RECIPIENT's** board approval date of the audit or the Audit Report release date are not accepted dates of receipt. Any **RECIPIENT** expending less than \$750,000 in federal funds in a fiscal year, is not required to have a 2 CFR PART 200-Audit, but must submit an annual independent financial audit to the **CABINET** within 30 days after receipt of the auditor's report(s) or nine months after the end of the Fiscal Year, whichever comes first.

Subrecipients are to electronically submit the data collection form to the Federal Audit Clearinghouse (FAC) on time as required by 2 CFR Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This regulation requires that the data collection form must be submitted to FAC within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine (9) months after the end of the fiscal year.

Section 8 **Insurance**

The **RECIPIENT** shall obtain insurance adequate to protect the **PROJECT PROPERTY** and **EQUIPMENT** as well as public liability insurance. The **RECIPIENT** shall certify to the **CABINET** the existence of such coverage before beginning vehicle operations, where applicable.

shall be notified by the **RECIPIENT** of the **RECIPIENT'S** obligations under this contract and the regulations relative to nondiscrimination on the ground of race, religion, color, sex, national origin, age, or disability.

4. Information and Reports: The **RECIPIENT** will provide all information and reports required by the **REGULATIONS**, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Cabinet to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the **RECIPIENT** will so certify to the **CABINET** as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the **RECIPIENT'S** noncompliance with the nondiscrimination provisions of this contract, the **CABINET** will impose such contract sanctions as it may determine to be appropriate, including but not limited to:
 - a. Withholding payment to the **RECIPIENT** under the contract until the contractor complies; and/or
 - b. Cancellation, termination or suspension of the contract, in whole or in part. Incorporation of Provisions: The **RECIPIENT** will include the provisions of Paragraphs 1 through 5 in every subcontract, including procurement of materials and leases of equipment unless exempt by the **REGULATIONS**, order or instructions issued pursuant thereto. The **RECIPIENT** will take such action with respect to any subcontract or procurement as the **CABINET** may direct as a means of enforcing such provisions including sanctions for noncompliance; provided however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the **CABINET** may request the State to enter into such litigation to protect the interests of the State.

Title VI of the Civil Rights Act of 1964 provides that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. In pursuit of this objective, the **RECIPIENT** must not (1) provide any service, financial aid, or benefit that is different from that provided to others; (2) subject an individual to segregation or separate treatment; (3) Restrict an individual in the enjoyment of any advantage or privilege enjoyed by others; (4) Deny any individual service, financial aid,

representative of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Section 14 **Equal Employment Opportunity**

In connection with the execution of this **AGREEMENT**, the **RECIPIENT** shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, or disability. The **RECIPIENT** shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin, age, or disability. Such actions 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 of training, including apprenticeship. The **RECIPIENT** will incorporate the foregoing requirements of this paragraph in all subcontracts for services covered by this **AGREEMENT**. Reference FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients."

The **RECIPIENT** must submit for approval an EEO/Affirmative Action Plan if they meet the following threshold: 50 or more transit-related employees and received capital or operating assistance in excess of \$1million the past year or received planning assistance in excess of \$250,000.

Section 15 **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 **AGREEMENT** or to any benefit arising there from.

Section 16 **Prohibited Interest**

No member, officer, or employee of the **CABINET** or of the **RECIPIENT** during his tenure or for one year thereafter shall have any interest, direct or indirect, in this **AGREEMENT** or the proceeds thereof.

the award and performance of any. DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The **RECIPIENT** shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The **RECIPIENT'S** DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the **RECIPIENT** of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

The **RECIPIENT'S** DBE goal is shown on Attachment B. The **RECIPIENT** shall look for ways to achieve the goals of the DBE Program through more race-neutral means in order to create a level playing field and increase opportunities for all small businesses, including DBE firms.

The **RECIPIENT** will make every effort to locate DBE's to purchase materials and services for use in the **PROJECT**. To demonstrate reasonable efforts to meet the Disadvantaged Business Enterprise contract goal, the **RECIPIENT** will provide documentation of the steps it has taken to obtain Disadvantaged Business Enterprise participation, including, but not limited to the following:

1. Attendance at a pre-bid meeting, if any, scheduled by the **RECIPIENT** to inform DBE's of subcontracting opportunities under a given solicitation;
2. Advertisement in general circulation media, trade association publications, and disadvantaged-focus media before bids or proposals are due;
3. Written notification to Disadvantaged Business Enterprises that are available that their interest in the contract is solicited;
4. Efforts made to select portions of the work proposed to be performed by DBE's in order to increase the likelihood of achieving the stated goal;
5. Efforts to negotiate with Disadvantaged Business Enterprises for specific sub-bids including at a minimum:
 - a. The names, addresses, and telephone numbers of Disadvantaged Business Enterprises that were contacted.
 - b. A description of the information provided to Disadvantaged Business Enterprises regarding the plans and specifications for portions of work to be performed.

- Encourage bid packages to include portions of the contract that can be reasonably bid by small businesses
- Require a prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- Placing this statement in every bid package (any procurement \$20,000 and over): "In regard to the arrangement of the solicitation, times for the bid opening, delivery schedules, etc. these will be made in a manner to facilitate participation by Small Businesses Concerns. The definition, size standards, and average gross receipts of Small Businesses are found in 13 CFR Part 121."
- For non-traditional transit grants, Livability Bus Grants, and other transit grants/projects that reach out to other community or State entities, identify alternative acquisition strategies and structured procurements that will allow joint ventures consisting of small businesses, including DBE firms, to be able to competitively compete for prime contracting opportunities.

All this should be accomplished in a race and gender neutral manner.

Section 21

US Department of Labor Federal Executive Order 11246

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The

order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No.11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Section 22 **Model Clauses**

Attachment C, Federally Required and Model Contract Clauses, and Attachment D, current Federal Transit Administration Master Agreement (FTA Master Agreement), are herein made a part of this **AGREEMENT**. The **RECIPIENT** shall abide by the FTA Master Agreement. The **RECIPIENT** shall include the Model Clauses in all subcontracts entered into pursuant to this **AGREEMENT**.

Section 23 **Disputes**

Any dispute concerning a question of fact in connection with the work not disposed of by **AGREEMENT** between the **RECIPIENT** and the **CABINET** shall be referred to the Executive Director, Office of Transportation Delivery of the Transportation Cabinet of the Commonwealth of Kentucky, or his/her duly authorized representative.

Section 24 **Termination**

The **CABINET** may cancel this **AGREEMENT** at any time by giving thirty (30) days written notice of such cancellation to the **RECIPIENT** for any of the following reasons:

1. The **RECIPIENT** discontinues the use of the **EQUIPMENT** or **PROPERTY** during the **PROJECT** period for the purpose of providing public transportation services;
2. The **RECIPIENT** fails to provide or support public transportation services during the **PROJECT** period;
3. The **RECIPIENT** takes any action pertaining to this **AGREEMENT** without the approval of the **CABINET** and which, under the terms of this **AGREEMENT**, would have required the concurrence of the **CABINET**;

and issue a determination, in accordance with Secretary's Order 11-004. (See attachment)

This Section (Section 26) only applies to **RECIPIENT(S)** who are non profit 501(c)(3) corporations and is not applicable to other government agencies. This includes state and federal agencies, local governments and state universities.

Section 27
Funding Out Provision

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the contractor thirty (30) calendar days written notice of termination of the contract.

Section 28
Agreement Change

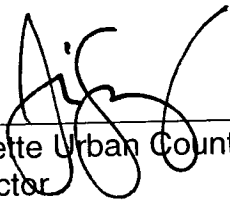
Any proposed change in this **AGREEMENT** must be at the mutual consent of the **RECIPIENT** and the **CABINET** and must have prior written approval of the **CABINET**.

vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.

- V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this **AGREEMENT** to be executed upon signature by proper officers and representatives on the date and year first written above:

Applicant:



Lexington Fayette Urban County Government (LFUCG)
Executive Director

Date

Recommended Grant Approval:

Public Transit Branch Manager, Tabitha Martin
Office of Transportation Delivery

Date

Recommended Budget Approval:

Deputy Executive Director, Eric Perez (Project in Budget)
Office of Transportation Delivery

Date

Approved:

Vickie S. Bourne, Executive Director
Office of Transportation Delivery

Date

Form and Legality:



Todd Shipp, Asst. General Counsel
Office of Legal Services

Date

1/23/17

5303 Federal Grant Award Date _____

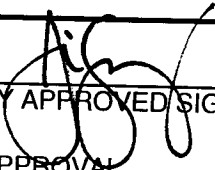


ATTACHMENT B-5303

AGENCY:
Lexington-Fayette Urban County Government
SECTION 5303 FY17
1003-2017-2 (CFDA #20.505)

KYTC/OFFICE OF TRANSPORTATION DELIVERY
SEC 5303 URBANIZED AREA TRANSP PLANNING
WORK PROGRAM/INVOICE FORM
JULY 1, 2016 - JUNE 30, 2017

CAPITAL DESCRIPTION ALI CODE	CURRENT MONTHLY EXPENSES	YEAR TO DATE EXPENSES	APPROVED AMOUNT	BALANCE
44.23.01 LONG RANGE PLANNING	\$ -	\$ -	\$ 39,318	\$ 39,318
44.21.00 PROGRAM SUPPORT ADMINISTRATION	\$ -	\$ -	\$ 8,076	\$ 8,076
44.24.00 SHORT RANGE TRANSIT PLANNING	\$ -	\$ -	\$ 6,553	\$ 6,553
44.27.00 OTHER/TRANSIT IMPACT ANALYSIS	\$ -	\$ -	\$ 6,553	\$ 6,553
	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ -	\$ -	\$60,500	\$ 60,500
FEDERAL SHARE 80%	\$0	\$0	\$48,400	\$ 48,400
LOCAL SHARE 20%	\$0	\$0	\$12,100	\$ 12,100

AGENCY APPROVED SIGNATURE 

DATE _____

KYTC APPROVAL _____