

AGREEMENT
BETWEEN THE
KENTUCKIANA REGIONAL PLANNING
AND DEVELOPMENT AGENCY
AND
LOUISVILLE-JEFFERSON COUNTY METRO GOVERNMENT

This Agreement is entered into as of _____, 2023, by and between the Kentuckiana Regional Planning and Development Agency, hereinafter referred to as "KIPDA", and Louisville Metro Government, hereinafter referred to as the "METRO GOVERNMENT."

PART I
SPECIFIC PROVISIONS

Whereas, KIPDA has agreed to provide the METRO GOVERNMENT with requested Federal MPO funding to develop a Bike Implementation Plan that will define specific, measurable, actionable, realistic, and time-bound (SMART), active transportation goals that METRO GOVERNMENT can deliver to its residents by making strategic investments in short and medium-term improvements to its street and road network as indicated in KIPDA's *Fiscal Year 2024 Unified Planning Work Program*. The study will be funded by a grant from the Federal Highway Administration (FHWA) through the Indiana Department of Transportation (INDOT) and the Kentucky Transportation Cabinet (KYTC).

Now therefore, in consideration of the mutual covenants, promises and representations herein, the parties hereto agree as follows:

SECTION 1 THE AGREEMENT

This Agreement shall consist of this Part I entitled Specific Provisions; Part II entitled Terms and Conditions; Part III entitled Project Budget; and Part IV entitled Scope of Work.

SECTION 2 SERVICES

The METRO GOVERNMENT agrees to perform, or have performed, the services as described in the Scope of Work which is Part IV of this Agreement, and in accordance with the terms and conditions of this Agreement.

SECTION 3 COMPENSATION

The total amount of compensation to be reimbursed for eligible expenses by KIPDA to the METRO GOVERNMENT for services outlined in Part IV Scope of Work shall not exceed

\$186,000. Payment will be made in accord with the terms and conditions set forth in Part III, Project Budget.

The METRO GOVERNMENT is responsible for providing the \$114,000 (38%) required local match.

SECTION 4 PERIOD OF PERFORMANCE

This Agreement shall commence as of _____, _____, and terminate as of June 30, 2024. All of the services and work required in the Scope of Work shall be completed on or before the termination date unless approved in writing by KIPDA in accordance with Part II, Section 2, Subpart D.

SECTION 5 PROJECT FUNDING

- A. It is expressly understood that funds for this Project are to be expended only for the purpose and activities covered by the Scope of Work and Project Budget.
- B. The total eligible cost of the Project shall not exceed the amount stated in the Project Budget unless approved in writing by KIPDA in accordance with Part II, Section 2, Subpart D.
- C. It is expressly understood and agreed that the final claim shall be submitted to KIPDA no later than fifteen (15) days after the termination date of this Agreement.

SECTION 6 REQUEST FOR PAYMENT

The METRO GOVERNMENT agrees to adhere to all payment procedures of KIPDA during the term of this Agreement. Payment for any cost pursuant to this section shall not constitute a final determination by KIPDA of the allowability of such cost and shall not constitute a waiver of any violation of the terms of this Agreement committed by the METRO GOVERNMENT. The METRO GOVERNMENT shall reimburse KIPDA for all funds spent on said ineligible work. In order for the METRO GOVERNMENT to be reimbursed for costs which are not listed in the Project Budget, and for costs of out-of-town travel and equipment purchases, the METRO GOVERNMENT must obtain written approval from KIPDA prior to incurring these costs.

SECTION 7 INSURANCE

The METRO GOVERNMENT shall comply with all applicable insurance, surety bonds, and qualifications of State and Local law.

SECTION 8 SUBCONTRACT

This Agreement is a subcontract of the contracts between KIPDA and the agencies providing

funding for the *Fiscal Year 2024 Unified Planning Work* Program and incorporates any and all requirements of the referenced contracts herein.

SECTION 9 LEGAL AUTHORITY

The METRO GOVERNMENT hereby assures and certifies with respect to this Agreement that it possesses the legal authority to execute and administer this Agreement.

SECTION 10 AVAILABILITY OF FUNDS.

KIPDA's obligations contained in this agreement are contingent on its receipt of adequate funding. KIPDA has no legal liability for payment of funds until funds are made available to KIPDA for this Project. A determination by the Executive Director of KIPDA that funds have not been made available to support this Project shall be final and conclusive, in which case this contract shall be cancelled.

IN WITNESS WHEREOF, the Kentuckiana Regional Planning and Development Agency and the Louisville-Jefferson County Metro Government have by their duly authorized officials entered into this Agreement.

**Louisville-Jefferson County
Metro Government**

BY: _____

Hon. Craig Greenberg
Mayor

Date: _____

Approved as to form and legality:

BY: _____

Jefferson County Attorney

Date: _____

**Kentuckiana Regional Planning and
Development Agency**

BY: _____

Jarrett Haley
Executive Director

Date: _____

Approved as to form and legality:

BY: Mitzi D. Wyrick

KIPDA Counsel

Date: 08/18/2023

PART II TERMS AND CONDITIONS

SECTION 1 DEFINITIONS AS USED IN THIS AGREEMENT:

- A. "Project" means the task or set of tasks provided, as set forth in Part IV, which the METRO GOVERNMENT undertakes to perform pursuant to this Agreement.
- B. "U.S.D.O.T." means the U. S. Department of Transportation, including the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA), or any persons duly authorized to perform the functions required under this Agreement by the U.S.D.O.T.
- C. "INDOT" means the Indiana Department of Transportation.
- D. "KYTC" means the Kentucky Transportation Cabinet.
- E. "STATE" means the Commonwealth of Kentucky and/or the State of Indiana.

SECTION 2 ACCOMPLISHMENT OF THE PROJECT

A. General Requirements

The METRO GOVERNMENT shall undertake, and complete the Project in a sound, economical, and efficient manner, and in accordance with the provisions hereof, all applicable Federal, State and Local laws, and regulations and directives issued by the INDOT, KYTC and the U.S.D.O.T.

B. Applicable Laws

- (1) In performance of its obligations pursuant to this Agreement, the METRO GOVERNMENT and its subcontractors shall comply with all applicable provisions of Federal, State, and Local law, and obtain the necessary licenses, permits, certificates, or consents which may be required in order to complete the Project. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements. If there is a conflict between Federal and State requirements, the METRO GOVERNMENT shall inform KIPDA in order that an appropriate resolution may be arranged. The METRO GOVERNMENT agrees further that no Federal funds may be used for the payment of ordinary governmental or non-project operating expenses.
- (2) Insofar as any provisions of the Agreement that are not governed by Federal law and the regulations required thereby, or incorporated herein by reference, the

provisions then shall be construed and interpreted solely in accordance with the laws of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Agreement shall be filed in the Jefferson County Circuit Court of the Commonwealth of Kentucky.

C. Submission of Reports, Proceedings, Contracts and Other Documents

The METRO GOVERNMENT shall submit to KIPDA such data, reports, records, contracts, and other documents relating to the Project as KIPDA may require. The METRO GOVERNMENT shall retain intact, for four (4) years from the date of final payment, all Project documents, financial records, and supporting documents.

D. Amendments

The METRO GOVERNMENT shall immediately notify KIPDA of any change in conditions, or of any other event, which may significantly affect its ability to perform the Project in accordance with the provisions of this Agreement. Any proposed change in this Agreement must be by the mutual consent of the METRO GOVERNMENT and KIPDA and must have prior written approval of KIPDA. In no event shall any amendment to this Agreement be valid unless incorporated in writing and signed by both parties to this Agreement.

E. Subcontracts

- (1) KIPDA shall not be subject to any obligations or liabilities by subcontractors of the METRO GOVERNMENT, or any other person not a party to this Agreement in connection with the performance of this Project without its specific written consent.
- (2) The METRO GOVERNMENT shall not assign any interest in this Agreement and shall not transfer any interest in the same, or execute any lease, mortgage, lien or subcontract relating to this Agreement or affecting Project facilities or equipment, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement without the prior written consent of KIPDA. The METRO GOVERNMENT shall not, by any act or omission of any kind, impair its continuing control over the use of Project facilities or equipment during the useful life thereof. All subcontracts must be approved by KIPDA prior to the METRO GOVERNMENT executing the subcontract. Any such subcontract approved by KIPDA which exceeds \$25,000 in cost shall contain all of the contract clauses as provided in this Agreement.

SECTION 3 ACCOUNTING RECORDS

A. Project Accounts

The METRO GOVERNMENT shall establish and maintain as a separate set of accounts, or within the framework of an established accounting system, accounts for the Project in a manner consistent with the Office of Management and Budget (OMB) circulars applicable to the METRO GOVERNMENT.

B. Documentation of Project Costs

All costs charged to the Project shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers describing in detail the nature and propriety of the charges. Such records, together with supporting documents, shall be retained for a minimum period of four (4) years from the date of final payment under this Agreement.

C. Allowable Costs

Expenditures made by the METRO GOVERNMENT shall be reimbursable as allowable costs to the extent that they meet all of the requirements set forth below. They must:

- (1) Be made in conformance with the Project Description and the Project Budget and all other provisions of this Agreement;
- (2) Be necessary in order to accomplish the Project;
- (3) Be reasonable in amount for the goods or services purchased;
- (4) Be agreed upon fees or actual net costs to the METRO GOVERNMENT (i.e., the price paid minus any refunds, rebates, or other items of value received by the METRO GOVERNMENT that have the effect of reducing the cost actually incurred;
- (5) Be incurred (and be for work performed) during the performance period of this Agreement, unless specific authorization from KIPDA to the contrary is received;
- (6) Be satisfactorily documented; and
- (7) Be treated uniformly and consistently under accounting principles and procedures approved or prescribed by the U.S.D.O.T. and KIPDA for the METRO GOVERNMENT; and those approved or prescribed by the METRO GOVERNMENT for its subcontractors.

D. Audits, Inspections and Monitoring

- (1) The METRO GOVERNMENT shall permit KIPDA, INDOT, KYTC, or any

federal agency, or any of their duly authorized representatives, to have full access to and the right to examine all audit documents and records of the METRO GOVERNMENT related to this Agreement, in accordance with compliance guidelines established by the Indiana State Board of Accounts or Kentucky State Auditor, and to inspect all Project equipment and property for a period of four (4) years from the date of final payment under this Agreement.

- (2) The METRO GOVERNMENT shall include in all its contracts under this Agreement, a provision that KIPDA, INDOT, KYTC, the U.S.D.O.T., the U.S. Comptroller General or any of their duly authorized representatives will have full access to and the right to examine any pertinent documents or records of any such subcontractor involving transactions related to this Agreement for a period of four (4) years from the date of the final payment under this Agreement.

E. Interest

The following requirements apply to the METRO GOVERNMENT:

- (1) Any interest earned on Federal funds by the METRO GOVERNMENT must be identified and remitted to KIPDA except as provided by section 203 of the Intergovernmental Cooperation Act of 1968, 42 U.S.C. Sec. 4213.
- (2) Upon notice by KIPDA to the METRO GOVERNMENT of specific amounts due the U.S.D.O.T., the METRO GOVERNMENT shall promptly remit any excess payment of amounts or disallowed costs to KIPDA. Interest may be assessed from the time of notice and charged for any amounts due to the U.S.D.O.T. that are not paid as set forth in the Treasury Fiscal Requirements Manual.

SECTION 4 PROJECT SETTLEMENT, COMPLETION REPORT, AND CLOSE-OUT

A. Completion Report

Upon successful completion of the Project or upon termination by KIPDA, the METRO GOVERNMENT shall, within twenty-five (25) days of the completion date of the Project, submit a final project Completion Report. The format of the report shall follow specifications provided by KIPDA.

B. Disputes

Any dispute concerning a question of fact in connection with the work not disposed of by Agreement between the METRO GOVERNMENT and KIPDA shall be referred to the Executive Director of KIPDA, or his duly authorized representative, whose decision

shall be final.

SECTION 5 LIABILITY

- A. All grants, payments and obligations of KIPDA under this Agreement are subject to the receipt of funds by KIPDA from the U.S.D.O.T. and/or from the INDOT, KYTC. KIPDA shall not be liable to the METRO GOVERNMENT for any failure or delay in performance of its obligations to the METRO GOVERNMENT which are the result of any failure or delay in performance between KIPDA and the U.S.D.O.T.
- B. The METRO GOVERNMENT shall procure and maintain, at its expense and without expense to KIPDA, until final payment by KIPDA for the services covered by this Agreement, insurance of the kinds and in the amounts hereinafter provided, covering all operations under this Agreement whether performed by the METRO GOVERNMENT or its subcontractors. The METRO GOVERNMENT shall maintain a certificate in its files showing that it has complied with this Section.
 - (1) Policy covering the obligations of the METRO GOVERNMENT in accordance with the applicable provisions of the Worker's Compensation Law. This agreement shall be void and of no effect unless the METRO GOVERNMENT procures such policy and maintains it until completion of the work.
 - (2) Comprehensive policies of bodily injury liability and property damage liability insurance, including owners or contractors protective coverage and a save and hold harmless endorsement of the types herein specified each with bodily injury limits of liability of not less than \$100,000 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident and not less than \$100,000 for each person, including death at any time resulting therefrom, and not less than \$300,000 in any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property.
 - (3) Automobile policies of bodily injury and property damage liability insurance of the types herein specified with bodily injury limits of liability of not less than \$100,000 for each person, including death at any time resulting therefrom, and not less than \$300,000 on any one accident, and not less than \$100,000 for all damages arising out of injury to or destruction of property, including hired and non-owned vehicles.

SECTION 6 INDEMNIFICATION

- A. It shall be the responsibility of the METRO GOVERNMENT to obtain authorization for use of documents or materials subject to property rights of any private person or other legal entity. The METRO GOVERNMENT agrees to indemnify the U.S.D.O.T., the

INDOT, KYTC and KIPDA for any damages they might incur as a result of non-negligent use of documents or materials submitted by the METRO GOVERNMENT which are subject to property rights of a third party.

- B. The METRO GOVERNMENT agrees to indemnify, defend and hold harmless the U.S.D.O.T., the INDOT, KYTC, and KIPDA, and their agents, officers and employees from all claims and suits for loss of or damage to property, including the loss of use thereof and injuries to or death of persons; including the property of, officers and employees of the METRO GOVERNMENT; and from all judgments recovered therefrom, and from expenses in defending said claims, or suits, including court costs, attorney's fees and other expenses, caused by any negligent act or omission of the METRO GOVERNMENT, their officers and employees, and not caused by the sole fault or negligence of the U.S.D.O.T., the INDOT, KYTC, and KIPDA, or their respective agents, officers and employees.
- C. The METRO GOVERNMENT agrees to require its subcontractors to indemnify U.S.D.O.T., the INDOT, KYTC, KIPDA, and their respective officers, agents and employees under the same terms as the METRO GOVERNMENT is agreeing to indemnification of U.S.D.O.T., the INDOT, KYTC, KIPDA, and their respective officers, agents and employees in Section 6.B. herein.

SECTION 7 TERMINATION AND BREACH

- A. KIPDA or the METRO GOVERNMENT may suspend or terminate this Agreement in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditures of funds. The two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated. The METRO GOVERNMENT shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. KIPDA shall allow full credit to the METRO GOVERNMENT for the Federal, INDOT, and KYTC share of any non-cancelable obligations, properly incurred by the METRO GOVERNMENT prior to termination.
- B. KIPDA may suspend or terminate this Agreement in whole, or in part, at any time before the date of completion, whenever KIPDA determines that the METRO GOVERNMENT has failed to comply with the terms and conditions of this Agreement. KIPDA shall notify the METRO GOVERNMENT in writing of the determination and the reasons for the termination together with the effective date of such termination at least thirty (30) days before the effective date of such termination. Any failure to make progress, which significantly endangers substantial performance of this Project within a reasonable time, shall be deemed to be a violation of the terms of this Agreement. Discontinued use of Project equipment during its useful life shall be deemed a violation

of the terms of this Agreement.

- C. KIPDA may terminate this Agreement immediately for cause upon written notice served upon the METRO GOVERNMENT by registered mail with return receipt requested.
- D. In the event of termination, all finished or unfinished documents or other materials prepared by the METRO GOVERNMENT, under this Agreement, at the option of KIPDA, shall be delivered within twenty (20) days to KIPDA and become its property. The METRO GOVERNMENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and materials. The phrase "satisfactory work completed" shall mean to the satisfaction of KIPDA and shall be applied to demand accurate, diligent and able workmanship from the METRO GOVERNMENT. If the METRO GOVERNMENT fails to make such delivery then the METRO GOVERNMENT shall pay to KIPDA any damage it may sustain by reason thereof.
- E. Upon termination of the Project and cancellation of this Agreement, the METRO GOVERNMENT agrees to dispose of any Project equipment in accordance with KIPDA requirements.
- F. The METRO GOVERNMENT shall not be relieved of liability to KIPDA for damages sustained by KIPDA by virtue of any breach of this Agreement by the METRO GOVERNMENT. KIPDA may withhold any payments to the METRO GOVERNMENT for the purpose of set-off until such time as the exact amount of damages due KIPDA from the METRO GOVERNMENT is determined. The METRO GOVERNMENT will be reimbursed for all non-cancelable obligations incurred prior to termination. The acceptance of a remittance by KIPDA or any or all Project funds previously received by the METRO GOVERNMENT or the closing out of Federal, INDOT, and KYTC financial participation in the Project shall not constitute a waiver of any claim which KIPDA, INDOT, KYTC or the U.S.D.O.T. may otherwise have arising out of this Agreement.

SECTION 8 FEDERAL AND STATE REQUIREMENTS

A. Nondiscrimination

The following conditions are applicable:

(I) State Law

Pursuant to Indiana Code 22-9-1-10 and the Governor's Code of Fair Practice of Kentucky, The METRO GOVERNMENT and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement with respect to hire, tenure,

terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, age or ancestry. Breach of this covenant may be regarded as a material breach of the contract. Pursuant to State law, the METRO GOVERNMENT agrees as follows:

- (a) The METRO GOVERNMENT will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age (40 or older). The METRO GOVERNMENT 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, ancestry, sex, age (40 or older), 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 compensation; and selection for training, including apprenticeship. The METRO GOVERNMENT agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- (b) The METRO GOVERNMENT will, in all solicitations or advertisements for employees placed by or on behalf of the METRO GOVERNMENT, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, sex, age (40 or older), or disability.
- (c) The METRO GOVERNMENT will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract, or understanding, a notice advising the said labor union or workers' representative of the METRO GOVERNMENT's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The METRO GOVERNMENT 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.

(2) Federal Law-42 USC 2000e

The METRO GOVERNMENT shall comply with 42 USC 2000e, the terms of which are incorporated by reference and made a part of this Agreement. Breach of this covenant may be regarded as a material breach of the contract.

The METRO GOVERNMENT and any agent of the METRO GOVERNMENT, in

the performance of the work under this Agreement, shall comply with 42 USC 2000e, provided the METRO GOVERNMENT has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. 42 USC 2000e states in part that it shall be unlawful for the METRO GOVERNMENT to:

- (a) Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
- (b) To limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect any individual's status as an employee, because of such individual's race, color, religion, sex or national origin.

(3) Federal Law-49 CFR Part 21

The METRO GOVERNMENT shall comply and shall assure the compliance by subcontractors under this Agreement with all the requirements imposed by Title VI of the Civil Rights Act of 1964, as amended. Accordingly, the METRO GOVERNMENT shall comply with the U.S. Department of Transportation Regulations, Title 49, Code of Federal Regulations, Part 21 through Appendix A and 23 CFR 710.405(b), which are herein incorporated by reference and made a part of this Agreement. Title 49, Code of Federal Regulations, Part 21, effectuates 42 USC 2000e above. Pursuant to 49 CFR Part 21, the METRO GOVERNMENT agrees as follows:

- (a) The METRO GOVERNMENT, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The METRO GOVERNMENT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the regulations, including employment practices when the contract covers a program set forth in Appendix "A" of the regulations.
- (b) In all solicitations either by competitive bidding or negotiation made by the METRO GOVERNMENT for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the METRO GOVERNMENT of the METRO GOVERNMENT's obligation under this Agreement and the regulations relative to nondiscrimination.

- (c) The METRO GOVERNMENT will provide all information and reports required by the regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts, and other sources of information, and its facilities as may be determined by KIPDA, INDOT, KYTC or the U.S.D.O.T. to be pertinent to ascertain compliance with such regulations or directives. Where any information required of the METRO GOVERNMENT is in the exclusive possession of another who fails or refuses to furnish this information, the METRO GOVERNMENT shall so certify to KIPDA, INDOT, KYTC or the U.S.D.O.T. as appropriate, and shall set forth what efforts it has made to obtain the information.
- (d) In the event of the METRO GOVERNMENT's noncompliance with the nondiscrimination provisions of this Agreement, KIPDA shall impose such contract sanctions as it, INDOT, KYTC, or the U.S.D.O.T. may determine to be appropriate, including, but not limited to, suspension or termination or refusal to grant or to continue federal financial assistance or by any other means authorized by law.

(4) Incorporation of Provisions

The METRO GOVERNMENT will include the provisions of Section 8A in every subcontract, including procurement of materials and leases of equipment, unless exempt by the regulations or directives issued pursuant thereto. The METRO GOVERNMENT will take such action with respect to any subcontract or procurement as KIPDA, the INDOT, KYTC, or the U.S.D.O.T. may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event the METRO GOVERNMENT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the METRO GOVERNMENT may request KIPDA to enter into such litigation to protect the interests of KIPDA and, in addition, the METRO GOVERNMENT may request the United States to enter into such litigation to protect their interests.

B. Disadvantaged Business Enterprises

- (1) It is the policy of KIPDA and the U.S. Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with Federal funds under this Agreement. Consequently, the Disadvantaged Business Enterprise (DBE) requirements of 49 CFR Part 23 apply to this Agreement.
- (2) The METRO GOVERNMENT or its subcontractor agrees to ensure that

disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, the METRO GOVERNMENT or its subcontractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The METRO GOVERNMENT and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S.D.O.T. assisted contracts.

- (3) The METRO GOVERNMENT agrees to document the steps it has taken to obtain disadvantaged business enterprise participation, including, but not limited to, efforts to contract or negotiate with disadvantaged business enterprises for specific work. Such documentation shall include at a minimum the names, addresses, and telephone numbers of disadvantaged business enterprises that were contacted; and a description of the information provided to disadvantaged business enterprises regarding the type of work to be performed.
- (4) If as a condition of assistance the METRO GOVERNMENT has submitted and KIPDA and the State have approved a disadvantaged business enterprise affirmative action program which the METRO GOVERNMENT agrees to carry out, this program is incorporated in this Agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the METRO GOVERNMENT of its failure to carry out the approved program, KIPDA shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the METRO GOVERNMENT to obtain future Federal funding.

C. Nondiscrimination Pertaining to Persons with Disabilities

The METRO GOVERNMENT agrees to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, PL-93-112, and with all applicable requirements under the Americans with Disabilities Act of 1990, PL-101-336, and applicable federal regulations (49 CFR Parts 27, 37 and 38 and 29 CFR Part 1630).

D. Competition in Procurement

The METRO GOVERNMENT shall comply with the Procurement Standards requirements set forth in OMB circulars applicable to the METRO GOVERNMENT, as amended and all revisions thereof, as may be appropriate; and all established procedures of KIPDA. KIPDA reserves the right to review the METRO GOVERNMENT's technical specifications and requirements, where such review is necessary for proper project

administration. The METRO GOVERNMENT further agrees that no Federal funds shall be used to support procurement utilizing exclusionary or discriminatory specifications.

E. Buy America

All procurement and construction contracts under this Agreement must comply with Section 165 of the Surface Transportation Assistance Act of 1982, PL 97-424, 49 USC 1601, and U.S.D.O.T. regulations and guidance issues to implement this statutory provision.

F. Energy Conservation

During the performance of this Agreement, the METRO GOVERNMENT shall comply with all applicable 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 (PL 94-163).

G. Privacy Act

The METRO GOVERNMENT shall comply with the Privacy Act of 1974 (5 USC Section 552a) and the rules and regulations issued pursuant to the Act when the performance of this Agreement involves activities associated with maintaining a system or records on individuals to be operated by the METRO GOVERNMENT, its subcontractors or employees to accomplish a Government function. The METRO GOVERNMENT shall include this Privacy Act notification in every approved subcontract for the same purpose.

H. Prohibited Interests

- (1) No officer, member or employees of KIPDA, INDOT , KYTC, and no member of the KIPDA Board or the State governing body, and no other public official of the governing body of the State in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- (2) 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 therefrom.

I. Restrictions on Lobbying

The METRO GOVERNMENT hereby certifies that it has complied with 31 USC 1352, regarding the use of federal funds for lobbying purposes, including the completion of a disclosure form, if necessary.

J. Compliance With Environmental Standards

The METRO GOVERNMENT shall comply with all applicable standards, orders, or requirements issued under Sections 114 and 306 of the Clean Air Act 49 USC 1857 (h), Sections 308 and 508 of the Clean Water Act 33 USC 1368, Executive Order 11738, and Environmental Protection Agency regulations 40 CFR Part 15, which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The METRO GOVERNMENT shall notify KIPDA of the receipt of any communication from EPA indicating that a facility to be utilized in the Project is under consideration for listing by EPA.

K. Drug-Free Workplace

- (1) The METRO GOVERNMENT hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Agreement a drug-free workplace, and that it will give written notice to KIPDA within eight (8) days after receiving actual notice that an employee of the METRO GOVERNMENT has been convicted of a criminal drug violation occurring in the METRO GOVERNMENT's workplace.
- (2) In addition to the provisions of subparagraph (1) above, if the total contract amount set forth in this Agreement is in excess of \$25,000, the METRO GOVERNMENT hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by the METRO GOVERNMENT in conjunction with this Agreement.
- (3) It is further expressly agreed that the failure of the METRO GOVERNMENT to in good faith comply with the terms of subparagraph (1) above, or falsifying or otherwise violating the terms of the certification referenced in subparagraph (2) above shall constitute a material breach of this Agreement, and shall entitle KIPDA to impose sanctions against the METRO GOVERNMENT including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of the METRO GOVERNMENT from doing further business with KIPDA for up to four (4) years.

L. Campaign Finance

If applicable, the METRO GOVERNMENT swears under the penalty of perjury, as provided by KRS 523.020, that neither it nor the entity that it represents has knowingly

violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to it or the entity it represents will not violate any provisions of the campaign finance laws of the Commonwealth.

M. Violations

If applicable, pursuant to KRS 45A.485, the METRO GOVERNMENT shall reveal to KIPDA any final determination of a violation within the last five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the corporate and utility tax, state sales and use tax, income tax, wages and hours laws, occupational safety and health law, unemployment compensation law, and workers compensation insurance law, respectively.

The METRO GOVERNMENT agrees to be in compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 for the duration of the Agreement. Failure to reveal a final determination of a violation of the referenced statutes or to comply with these statutes for the duration of the Agreement shall be grounds for the cancellation of the Agreement and disqualification of the METRO GOVERNMENT from eligibility for future KIPDA contracts for a period of two (2) years.

N. Employment

During the period of this Agreement, the METRO GOVERNMENT shall not engage on full or part time or other basis, any Indiana Department of Transportation personnel who remain in the employ of the Indiana Department of Transportation.

SECTION 9 MISCELLANEOUS

A. Bonus or Commission

The METRO GOVERNMENT warrants that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining an approval by KIPDA which may be necessary in connection with carrying out this Agreement.

B. Covenant Against Contingent Fees

The METRO GOVERNMENT warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, KIPDA shall have the right to annul this Agreement without liability or at its discretion, to deduct from the compensation to be paid under this Agreement, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

C. Successors and Assigns

KIPDA and the METRO GOVERNMENT each binds itself, its partners, successors, executors, administrators, and assigns to the other party to this Agreement, and to the partners, successors, executors, administrators, and assigns of such other party in respect to all promises of this Agreement.

D. Severability

If any part or provision of this Agreement is held invalid, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part or provision held to be invalid.

E. Funding Cancellation

If the U.S.D.O.T., INDOT, or KYTC makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, the Agreement shall be canceled. A determination by the U.S.D.O.T., INDOT, or the KYTC that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

F. Patent Rights and Copyrights

- (1) No invention conceived or first actually reduced to practice in the course or under this Agreement by the METRO GOVERNMENT or any subcontractor which is or may be patentable under the patent laws of the United States of America or any foreign country may be patented without the written authorization of the U.S.D.O.T. The METRO GOVERNMENT shall include a similar clause in all of its subcontracts. All disputes arising out of patent rights shall be governed by the rules and regulations pertaining to patents as issued by the U.S.D.O.T.
- (2) The METRO GOVERNMENT shall be free to copyright material developed under this Agreement with the provisions that KIPDA, the INDOT, KYTC and the U.S.D.O.T. reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and authorize others to use the work for government purposes.

G. Ownership of Documents

- (1) All documents, including tracings, drawings, reports, data, and records, as instruments of service, are to be the joint property of the INDOT, KYTC, KIPDA and the METRO GOVERNMENT. During the performance of the

services provided herein, the METRO GOVERNMENT shall be responsible for any loss or damage to the documents, herein enumerated.

- (2) Pursuant to Section 8136 of the Department of Defense Appropriations Act for fiscal year 1989, the METRO GOVERNMENT shall clearly set forth in any statement, press release, request for proposal, bid solicitation or other document describing projects or programs funded in whole or in part with U.S.D.O.T. funding information concerning the use of those U.S.D.O.T. funds. All reports published by the METRO GOVERNMENT shall contain the following credit reference:

Preparation of this report has been financed by the Federal Highway Administration, the Indiana Department of Transportation, the Kentucky Transportation Cabinet, and Louisville-Jefferson County Metro Government. This financial assistance notwithstanding, the contents of this report do not necessarily reflect the official views or policies of the funding agencies. Accuracy of the information presented herein is the responsibility of Louisville Metro Government.

PART III PROJECT BUDGET AND PAYMENT

SECTION 1

In no event shall the maximum liability of KIPDA under this contract exceed \$186,000. The required non-federal cash matching funds in the amount of \$114,000 will be provided by the METRO GOVERNMENT.

SECTION 2

As a part of the final contract negotiation, the specific method of making partial payments under the contract will be negotiated. Payments will be based on measurable work products accepted by KIPDA when deemed necessary by KIPDA.

SECTION 3

The METRO GOVERNMENT shall submit periodic invoices in a form acceptable to KIPDA. The invoice submittal will include a narrative progress report detailing the work that was completed during the period being billed. The invoices must be signed by the person who signed this contract, or their designee.

SECTION 4

The payment of an invoice by KIPDA shall not prejudice KIPDA's right to object or question any invoice or matter in relation thereto. Such payment by KIPDA shall neither be construed as acceptance or any part of the work or service provided, nor as an approval of any costs invoiced therein.

SECTION 5

KIPDA reserves the right to deduct from amounts which are or shall become due and payable to the METRO GOVERNMENT under this or any contract between the parties any amounts which are or shall become due and payable to KIPDA by the METRO GOVERNMENT.

SECTION 6

Persons authorized to obligate KIPDA under this Agreement or to modify this Agreement are KIPDA's Executive Director or Assistant Executive Director.

PART IV SCOPE OF WORK

Louisville Metro Bike Implementation Plan

The Bike Implementation Plan will define specific, measurable, actionable, realistic, and time-bound (SMART), active transportation goals that Louisville Metro can deliver to its residents by making strategic investments in short- and medium-term improvements to its street and road network. The Bike Implementation Plan will assess current bike and scooter usage patterns, identify opportunities for all-ages-and-abilities upgrades to be made to the current bike network, and determine solutions to address critical gaps and missing connections within and to the larger bike network. The Bike Implementation Plan is critical to achieving Louisville Metro's adopted goal of eliminating traffic fatalities by 2050 and becoming a net zero community by 2040.

In 2020, 2021, and 2022, more than 120 people died each year moving about our city. 2022 was Louisville's deadliest year for cyclists and pedestrians of at least the last ten; therefore, it is critical we identify strategic investments and opportunities that will allow us to save as many lives as possible as quickly as possible. In April 2023, Louisville surpassed its millionth scooter trip since the launch of scooter-sharing in 2019. The explosive growth of this mode has shown how much latent demand there is in our community for flexible, affordable, and sustainable transportation options. Given the age of the existing Bike Master Plan and how much best practices have changed, Louisville Metro is in need of this Bike Implementation Plan to identify our strategic opportunities to allow us to quickly make the most meaningful progress possible toward achieving our community's adopted transportation goals.

The introduction of thoughtful, useful, bike infrastructure has been proven to make the entire transportation system safer and more efficient for everyone—no matter how one chooses to move around. This Bike Implementation Plan will provide a reimagined, Metro Bike and Scooter Program with the details and direction it needs to deliver truly useful, safe, and comfortable transportation options to more people across more neighborhoods. The recommendations of this plan will inform direct and leveraged spending decisions; including, which capital projects are prioritized for funding in Metro's local budget, KIPDA's dedicated funding programs, state funds, and federal discretionary grants. This plan will better position our community to retain and attract talent, improve quality of life for our residents, and help us achieve our broader safety, equity, and environmental goals.

The Bike Implementation Plan will cover the entirety of Jefferson County. While upgrades to the current bike network and the in-fill of critical connections will be prioritized, the plan will also look at long-term opportunities for potential State and local trail connections throughout the county (and potentially beyond).