

**MEMORANDUM OF AGREEMENT**  
**AMONG**  
**THE INDIANA DEPARTMENT OF TRANSPORTATION,**  
**THE KENTUCKY TRANSPORTATION CABINET, AND**  
**THE TRANSIT AUTHORITY OF RIVER CITY**  
**REGARDING**  
**ENHANCED BUS SERVICE AS PART OF THE**  
**LOUISVILLE-SOUTHERN INDIANA OHIO RIVER BRIDGES PROJECT**

WHEREAS, the Indiana Department of Transportation (INDOT) and the Kentucky Transportation Cabinet (KYTC), in cooperation with the Federal Highway Administration (FHWA), intend to construct the Louisville-Southern Indiana Ohio River Bridges Project (the Project) to improve cross-river mobility between Jefferson County, Kentucky and Clark County, Indiana; and

WHEREAS, the Project was described in detail in a Supplemental Final Environmental Impact Statement signed by FHWA on April 20, 2012 (the SFEIS), and in a Revised Record of Decision approved by FHWA on June 20, 2012 (the Revised ROD); and

WHEREAS, the Project, as approved in the Revised ROD, provides for the construction of two new bridges across the Ohio River in the Louisville metropolitan planning area, the reconstruction of the existing John F. Kennedy Memorial Bridge (I-65), the construction and reconstruction of approach roadways to those bridges in Kentucky and Indiana, the reconstruction of the Kennedy Interchange (I-64, I-65, and I-71) at its present location, the construction of electronic toll facilities for the two new bridges and the Kennedy Bridge, and inclusion of Transportation Management elements, including enhanced bus service (collectively known as the Modified Selected Alternative); and

WHEREAS, the Louisville Metropolitan Planning Organization (MPO) has amended the *Horizon 2030* Metropolitan Transportation Plan, the region's long-range transportation plan, to include the Modified Selected Alternative and tolling as a funding source, and FHWA has determined that *Horizon 2030*, with the Modified Selected Alternative, satisfies the fiscal constraint requirements and air quality conformity requirements under federal planning and air quality statutes; and

WHEREAS, based on the analyses presented in the SFEIS, FHWA has determined that neither the cost of tolls, nor other direct or indirect impacts, would be predominantly borne by environmental justice populations, but that, based on vehicle user cost data, the Modified Selected Alternative is likely to cause disproportionately high and adverse effects on minority

and low-income populations, because those impacts would be appreciably more severe or greater in magnitude for these populations; and

WHEREAS, the Modified Selected Alternative incorporates extensive measures to avoid, minimize, and mitigate impacts to the natural and human environment, and those commitments are documented in Chapter 8 of the SFEIS and Chapter 4 of the Revised ROD; and

WHEREAS, Section 4.3.2 of the Revised ROD identifies the elements of enhanced bus service to be included in the Modified Selected Alternative, including a commitment for INDOT and KYTC to provide \$20 million for capital investments and public awareness programs related to enhanced bus service during the life of Project construction; provided, however, that funds will not be provided to cover operational expenses; and

WHEREAS, Section 4.3.2 of the Revised ROD also specifies that KYTC and INDOT will include as part of the project design the construction of turning radii and lane widths that meet design criteria for bus usage; that KYTC and INDOT will coordinate with TARC at the end of Project construction to determine how the investment in transit equipment can continue to promote cross-river mobility; and that KYTC and INDOT will not provide for traffic signal priority beyond the current scope of the plans, but that TARC should coordinate this issue, which concerns the local street system, with Louisville Metro Government; and

WHEREAS, Section 4.3.2 of the Revised ROD provides that KYTC and INDOT will enter into a Memorandum of Agreement with TARC prior to the start of construction on the Downtown Crossing portion of the Project (as defined in the Revised ROD), which MOA will detail the final agreed upon funding amounts and years of expenditure to comply with the SFEIS; and

WHEREAS, Section 4.1.17 of the Revised ROD describes the measures that have been identified by INDOT and KYTC, in cooperation with FHWA, to mitigate the economic effect of tolling on minority and low-income populations, including the commitment to include enhanced bus service as part of the Modified Selected Alternative, as described in Section 4.3.2 of the Revised ROD;

NOW, THEREFORE, INDOT, KYTC, and TARC (collectively, the Parties, and individually, a Party) have entered into this Memorandum of Agreement (MOA) to satisfy the requirements of the SFEIS and the Revised ROD with respect to the inclusion of enhanced bus service as an element of the Modified Selected Alternative and as partial mitigation for the economic effect of tolling on environmental justice populations.

## **I. FUNDING COMMITMENT**

A. INDOT and KYTC shall each provide \$10 million of FHWA funds to be paid to TARC for capital investments and public awareness programs related to enhanced bus service during the life of Project construction. The funds shall be used for:

- Constructing and/or expanding park and ride facilities;
- Purchasing buses and vans for express and shuttle bus service during construction;

- Purchasing and rehabilitating additional facilities or rehabilitating existing facilities to accommodate the increased fleet;
- Improving and consolidating existing bus stops and constructing new bus stops; and
- Developing a public awareness and communications program, including advertising, using emerging technology to communicate with the public to encourage ridership, and informing low-income populations of the enhanced bus service.

The funds shall not be used for operations costs which include employee salaries, routine maintenance, and overhead costs.

Funds provided to TARC pursuant to this commitment shall be contributed in equal shares (i.e., 50%/50%) by INDOT and KYTC for the specific purposes set forth in the document entitled "LSIORB PROJECT ENHANCED BUS SERVICE" dated April 16, 2013, which is attached to, and incorporated herein by reference, as Exhibit A.

**B.** INDOT and KYTC shall contribute federal funds to TARC in the total amount not to exceed \$20,000,000.00 (the "Federal Funds"). (INDOT intends to use Congestion Mitigation and Air Quality Improvement Program ("CMAQ") funds to make its contribution of Federal Funds. KYTC intends to use Interstate Maintenance ("IM") Funds to make its contribution of Federal Funds.) The Federal Funds shall be transferred (or "flexed") by INDOT and KYTC through FHWA to the Federal Transit Administration ("FTA"), which shall distribute and administer the funds according to FTA's standard reimbursement policies and procedures. The funds also shall be subject to any FHWA statutory or regulatory limitations normally associated with funds of this type. The activities eligible for reimbursement and the policies and procedures for administration of the funds and reimbursement to TARC may be set out in a separate Master Agreement between TARC and FTA. Within 7 days after full execution of this MOA by all parties, INDOT and KYTC shall submit the request to FHWA to make such transfers to FTA. TARC expressly agrees that all funds it receives from FTA pursuant to this MOA shall be used exclusively for the specific purposes set forth in Paragraph I.A. above, as set forth in greater detail in Exhibit A hereto, and in general accordance with the terms and conditions of this MOA. TARC understands and agrees that no Federal Funds shall be used for operational expenses or other ineligible expenses. Once funds are transferred to FTA, it shall be the responsibility of TARC to obtain and secure funds from FTA that are subject to and in compliance with this MOA.

**C.** In the event that FHWA or FTA finds that the Federal Funds to be provided under this MOA are not eligible for any of the purposes described herein or in Exhibit A, INDOT and KYTC will provide other eligible funds (which may include state funds) to cover such ineligible expenses. However, under no circumstances shall INDOT or KYTC be obligated to provide more than \$10,000,000.00 each in funding under this MOA. Further, if INDOT and KYTC must provide alternate funding for any ineligible expense, TARC agrees to take any action necessary to assist in reversing the transfer of Federal Funds (in an amount equal to the ineligible expenses) from FTA to FHWA, and back to INDOT and KYTC.

**D.** The Parties may, from time to time, agree in writing to modify the funding amounts set forth in Exhibit A, provided that the use of funds pursuant to such modification remains

consistent with the requirements of Section 4.3.2 of the Revised ROD and the specific purposes set forth in Paragraph I.A. above. Any such modification in the use of funds also shall be confirmed in an amendment to the FTA Master Agreement agreed upon by TARC and FTA.

E. Beginning in the fourth quarter of calendar year 2013, and extending for the duration of construction of the Project, TARC shall provide a written status report to INDOT and KYTC, no later than 30 days following the end of each calendar quarter, identifying actions taken and funds expended pursuant to this MOA, including, at a minimum, for:

- Procurement of buses and other vehicles, including placement of orders, payment, delivery, and verification of KYTC and/or INDOT being named as vehicle lien holders;
- Implementation of a public awareness and information campaign related to enhanced bus service provided as part of the Project;
- Planning for enhanced bus service, including analysis of traffic maintenance plans and congestion mitigation measures for the Project, evaluation of new and existing transit routes and schedules, and implementation of TARC service adjustments in response to traffic pattern changes and Project construction;
- Location, planning, and construction/installation of new park and ride facilities and passenger facilities (bus stops, shelters, benches, etc.), as well as improvement of existing park and ride and passenger facilities associated with the Project;
- Acquisition and improvement of a new maintenance facility or improvements to existing facilities, purchase of new maintenance equipment, and upgrades to existing asset management systems;
- Location, acquisition, and operation of a TARC information and customer service center during Project construction; and
- Monitoring of the enhanced bus service provided pursuant to this MOA.

F. TARC and its subcontractors shall provide INDOT, KYTC, or their authorized representatives, reasonable access to TARC's records related to the use and expenditure of funds provided pursuant to this MOA, and shall cooperate with INDOT and KYTC in any audit of TARC's use and expenditure of funds provided pursuant to this MOA, as required by law or as determined necessary in the reasonable discretion of INDOT and KYTC. Further, TARC shall assist INDOT and KYTC as necessary in obtaining any FTA records, reports or other documentation concerning expenditure and administration of the Federal Funds made available to TARC under this MOA. TARC shall maintain, for a period of at least three years following the termination of this MOA, any and all records relating to its use and expenditure of funds provided pursuant to this MOA

G. INDOT and KYTC shall cooperate with TARC and provide any additional documentation requested by TARC concerning the availability of funding under this MOA, as reasonably necessary to undertake any of the actions or expenditures identified on Exhibit A.

## **II. COORDINATION AND COOPERATION**

A. The Parties agree that, following the end of construction of the Project, INDOT and KYTC will coordinate with TARC to determine how the investment in transit equipment can continue to promote cross-river mobility. Matters that may, at the discretion of the Parties, be explored at that time include continued monitoring and adjustment of cross-river transit service to address the needs of environmental justice populations (consistent with the toll policy established for the Project to mitigate impacts to environmental justice populations), assistance in identifying funding options for TARC's operating expenses associated with the enhanced bus service, and evaluation of ridership, levels of service, costs, long-term service projections, and lessons learned.

B. The Parties may meet and confer, from time to time prior to or during construction of the Project, to evaluate the planning and implementation of enhanced bus service and to consider any modifications to the detailed schedule of funding amounts and years of expenditure set forth on Exhibit A. A meeting of the Parties may be convened by any individual Party during the term of this MOA by providing reasonable advance notice, in writing, to the other Parties, specifying the topics to be addressed in such meeting.

C. Time is of the essence with respect to the Parties' performance of their obligations and expenditures pursuant to this MOA. If a time is not specified, performance shall be required promptly and with due regard to the conditions of performance of other Parties in reliance thereon, including the requirements of the Revised ROD.

### **III. MODIFICATION AND AMENDMENT**

A. If the Project, as described in the Revised ROD, is significantly modified, such that the need or requirements for enhanced bus service are significantly altered, the Parties shall consult in good faith regarding the necessity to amend, modify, or terminate this MOA. If the Project is terminated, the Parties shall work together in good faith to wrap up and terminate the activities called for pursuant to this MOA. In such event, TARC shall take any immediate actions necessary to avoid further expenditures pursuant to this MOA and to minimize any unavoidable expenditures; provided that INDOT and KYTC shall ensure that FTA reimburses TARC for any expenditures incurred by TARC prior to TARC having received notice of such termination or failure of appropriation for which TARC is contractually bound and which cannot be cancelled or reversed by TARC's reasonable, good faith efforts.

B. This MOA shall not be amended except upon the written agreement of all Parties. Neither this MOA, nor any of the rights, duties, or obligations described herein, shall be assigned by any of the Parties without the prior express written consent of the other Parties, such consent not to be unreasonably withheld so long as such assignment is consistent with the purposes of this MOA and the terms of the Revised ROD.

### **IV. NOTICE**

Notice required under this MOA to any of the Parties shall be provided in writing, by hand-delivery or U.S. mail, first-class, postage prepaid, to:

INDOT: Larry Buckel  
Transit Office Manager  
Indiana Department of Transportation  
100 North Senate Ave., IGCN N955  
Indianapolis, IN 46204

KYTC: Vickie Bourne  
Kentucky Transportation Cabinet  
Office of Transportation Delivery  
200 Mero Street  
Frankfort, KY 40622

TARC: Barry Barker  
Transit Authority of River City  
1000 West Broadway  
Louisville, KY 40203

**VI. DURATION**

This MOA shall remain in effect until six months following completion of construction of all portions of the Project, as described in the Revised ROD.

IN WITNESS WHEREOF, the Parties have hereunto set their signatures on the dates set forth below. This MOA shall be effective as of the last date set forth below.

**INDIANA DEPARTMENT OF TRANSPORTATION**

By: 

Date: 4/30/2013

Printed Name: JAMES P. STARK

Printed Title: DEPUTY COMMISSIONER ALTERNATIVE PROJECT DELIVERY

**KENTUCKY TRANSPORTATION CABINET**


By: 

Date: 5/2/13

Printed Name: Michael W. Hancock

Printed Title: Secretary

Approved as to form and legality

  
Rebecca Goodman, Esq.

**TRANSIT AUTHORITY OF RIVER CITY**

By: *Ji Barry Barker*

Date: *4/22/13*

Printed Name: *Ji Barry Barker*

Printed Title: *Executive Director*

Exhibit "A"

LSIORB PROJECT ENHANCED BUS SERVICE  
 TARC Priorities by Years of Expenditure as of April 16, 2013  
 YEAR 1 to YEAR 4 - July 2013 - December 2016

TARC - ORBP - Enhanced Bus Service Expenditures by Year - July 2013 - Dec 2016

PROJECT ACTIVITY TASKS BY PRIORITIES	Total Cost	YEAR 1	YEAR 2	YEAR 3	YEAR 4
Buses acquisition - 21 buses	\$9,492,596	\$9,492,596			
Shuttle vehicle acquisition - 4 shuttle vehicles	\$500,000	\$500,000			
TARC 3 vehicles - 8 vehicles	\$400,000	\$400,000			
Vanpool vehicles - 8 vans	\$200,000	\$200,000			
TARC Surveys - data and analysis, to establish a base line to develop service & benchmarks	\$100,000	\$100,000			
TARC Information and Customer Service Center	\$980,000	\$980,000			
Public awareness and information program	\$1,350,000	\$480,000	\$330,000	\$270,000	\$270,000
Maintenance Equipment - DPF cleaner, service truck	\$141,000	\$141,000			
Asset Management System Upgrade	\$800,000	\$800,000			
Park and TARC facilities: construct and expand	\$1,550,000	\$1,550,000			
Transit facilities: Improve and consolidate bus stops; construct new bus stops and shelters	\$866,404	\$866,404			
Facility Rehabilitation - Building improvements	\$3,567,000	\$840,000	\$2,727,000		
<b>Total capital funds needed</b>	<b>\$19,947,000</b>	<b>\$16,350,000</b>	<b>\$3,057,000</b>	<b>\$270,000</b>	<b>\$270,000</b>