

Craven County



CRAVEN COUNTY GOVERNMENT

CRAVEN AREA RURAL TRANSIT SYSTEM

**REQUEST FOR PROPOSAL (RFP)
FOR
TRANSIT DEVELOPMENT PLAN
RFP # CARTS-2017-01**

ISSUED BY:

Craven County Government
Craven Area Rural Transit System (CARTS)
2822 Neuse Blvd.
New Bern, NC 28562
Phone: 252.636.4917
Facsimile: 252.636.4919
www.cravencountync.gov/departments/trn.cfm
Due Date: Friday, December 23, 2016
Due Time: 4:00 pm EST

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SCOPE OF SERVICE

INTRODUCTION

A qualified firm is sought by Craven County Government (North Carolina), to prepare a Transit Development Plan (TDP) that will provide guidance for Craven Area Rural Transit System (CARTS) to utilize through the next steps of transitioning from a rural to a mixed rural-small urban transit system for the now designate New Bern urbanized area as determined by the Federal Transportation Administration (FTA).

BACKGROUND

Craven Area Rural Transit System (CARTS) located in New Bern, NC, functions as a department of the Craven County Government and has operated as a regional transit system since 1980. Operating Monday-Friday, CARTS operates regionalized demand response public transit services in Craven, Jones and Pamlico counties during the hours of 5:00 a.m. to 6:00 p.m., two fixed routes operating within the City of New Bern from 7:00 a.m. to 5:00 p.m., and ADA Complementary Paratransit service operating ¾ mile area around the fixed route.

Operating and capital funding for the support of CARTS services includes North Carolina Department of Transportation (NCDOT) financial assistance comprised of Community Transportation Program (CTP) funds (FTA § 5311 Nonurbanized Area Program) and NCDOT Rural Operating Assistance Program (ROAP) funds; FTA 5307 Urbanized Formula Program; and local matching funds currently in the form of contracting and advertising revenue. The population for the entire regional service area is 126,802; the population for the urbanized area is 50,503 (2010 Census data).

An updated TDP, consisting of recommendations derived from appropriate needs analyses, will provide guidance to CARTS in system design such as mode of delivery of service, changes in services offered, changes in asset management, changes in staffing, proposed organizational structure, changes, projection for needed local funding, regulatory compliance, and fee structure..

FUNDING

Funding for the procurement of services as outlined in this Request for Proposal (RFP) will be FTA § 5307 Urbanized Area Formula Program and appropriate local match. The award of the project agreement is contingent upon the availability of Federal funds to support the project.

NON-APPROPRIATION

All funds for payment by County under this Contract are subject to the availability of any annual appropriation for this purpose by the Board of Commissioners. In the event of non-appropriation of funds by the Board of Commissioners under the Contract, County will terminate the Contract, without termination charge or liability, on the last day of the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted upon three (3) days prior written notice, but failure to give such notice shall be of no effect and County shall not be obligated under this Contract beyond the date of termination.

GOVERNING LAW

This Agreement shall be controlled, construed and enforced in accordance with the substantive laws of the State of North Carolina without regard to any laws related to choice or conflicts of laws. Furthermore, EXCLUSIVE venue shall be in a “Court of Competent Jurisdiction in Craven County, North Carolina.

RFP INFORMATION

RFP Timetable

The anticipated schedule for selection of a Proposer and initiation of the project is as follows:

- Request for Proposal Issued (November 18, 2016)
- Deadline for Questions Regarding the RFP (December 2, 2016 at 4:00 p.m.)
- Answers Provided to the Questions (December 9, 2016)
- Proposal Submittals Due (December 23, 2016 at 4:00 p.m.)
- Vendor Notification of Recommendation (January 9, 2016)
- Anticipated Commissioner Approval (Mid to late January 2016)

Times listed are Eastern Standard time as per the time indicated on the clock on the wall of the CARTS office.

Note: Dates are subject to change. Any changes to the proposal due date, shall be issued by Addendum which will be published on the CARTS website www.cravencountync.gov/departments/trn.cfm. Questions or qualifications will also be responded to by Addendum which will be published on the CARTS website www.cravencountync.gov/departments/trn.cfm. Final contract award pending approval by the Craven County Board of Commissioners.

COMMUNICATION PROTOCOL

All questions related to the RFP and the proposal process must be written and submitted by e-mail prior to 4:00 p.m. EST Friday, 2 December, 2016, directed to Ms. Kelly Walker at carts@cravencountync.gov. This is the only acceptable method of communication during the course of this RFP. *No telephone or facsimile proposals inquiries will be considered.* Questions received will be responded to by Addendum which will be published on the CARTS website at www.cravencountync.gov/departments/trn.cfm. Please do not solicit any information requests or questions from any other person(s) at CARTS. Requests for technical assistance will not be available by phone. Questions, answers, and any ensuing Addenda will be published on the CARTS website at www.cravencountync.gov/departments/trn.cfm.

SUBMISSION INFORMATION REQUIREMENTS

Sealed proposals shall be submitted to CARTS in person, by agent or certified mail, return receipt requested by 4:00 pm EST on **Friday, 23 December, 2016**. Submittals are to be in a sealed, opaque envelope clearly marked “**RFP # CARTS-2017-01: TRANSIT DEVELOPMENT PLAN PROPOSAL**”. Proposals without this project title will be subject to disqualification and non-consideration. ***It is the responsibility of the proposer to ensure proposals arrive before the deadline.*** Failure of the U.S.

Postal Service, or any other delivery service, to deliver proposal packages on time shall result in the proposal not being considered and returned unopened.

A proposal may be withdrawn in person or their authorized representative, provided their identity is made known and a receipt is signed for the proposal, but only if the withdrawal is made prior to the exact time set for receipt of proposals.

Submission of Facsimile and E-Mail submissions will not be accepted. All submittals must be professionally organized. [One original copy, signed by the individual authorized to legally enter into contractual obligations, and six (6) additional copies of the proposal must be included as well as one (1) electronic copy via CD or USB driver in Pdf format.]

Mail proposals to:

Craven Area Rural Transit System (CARTS)
2822 Neuse Blvd.
New Bern, NC 28562
ATTN: "RFP # CARTS-2017-01: TRANSIT DEVELOPMENT PLAN"

Proposals received after the date and time for closing will not be considered and will be returned to the proposer unopened. Craven County reserves the right to accept or reject any or all proposals or any part of a proposal and to waive any informality and accept the most favorable proposal to meet the best interest of CARTS. Craven County reserves the right to cancel this procurement at any time without cause or obligation to any proposers.

PROPRIETARY INFORMATION

Any information contained in the proposal that the proposer considers proprietary must be clearly identified as such. Craven County/CARTS will respect requests for non-disclosure of proprietary information to the extent that information so restricted conforms to the Freedom of Information Act and any court rulings.

PRE-BID/PROPOSAL CONFERENCE

No pre-bid/proposal conference will be held for this procurement.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

Craven County, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notify all prospective respondents that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

STATEMENT OF WORK

OBJECTIVE:

Identify system design modifications to best facilitate the transportation needs of the New Bern urbanized area

Rationale for system design modifications may include, but are not limited to:

- Constraints of the existing modes of service provided by CARTS (i.e., hours of operations, days of service, service mode, efficacy of routes, etc.)
- Barriers in providing services (i.e., fiscal, facilities, fleet, staffing, accessibility, etc.)
- Unidentified unmet transportation needs (i.e., work, educational, medical, quality of life, etc.)
- Demographic changes (i.e., population, employment, etc.)
- Organizational structure, oversight and local support (i.e., limited local governmental resources, etc.)

WORK PLAN/TASKS:

Perform a Comprehensive Needs Analysis

- **Analyze existing data and information for effectiveness, efficiency and capacity:**

Perform a summary review of the agency to include *performance* (agency staffing, customer service, etc.), *service delivery* (practices, operating performance, etc.), and *asset management* (fleet, facilities, etc.).

- **Examine existing fiscal data and asset information for sustainability and capacity:**

Perform a summary review of current operating expenditures, revenues and assets to evaluate capacity to support system changes, growth or expansion.

- **Review other relevant existing data and information for coordination:**

Perform a summary review of other documents and data, to include the Locally Coordinated Public Transportation and Human Services Transportation Plan, existing trip data, and relevant demographics of the urbanized area.

Evaluate Governance and Oversight Capacity

Perform an analysis of the existing governance and oversight systems and structures to evaluate capacity to support system changes, growth or expansion.

Perform Fact Gathering Tasks

- Perform passenger surveys to identify gaps in existing service and unmet needs.

- Perform a direct mail survey, sampling 20% of the urbanized area, for input from riders and non-riders to identify gaps in existing service and unmet needs.
- Perform a passenger trip analysis to identify trip generators, originations and destinations, and trip purpose.
- Schedule and facilitate two (2) meetings to involve the public (one held during daytime hours, one held in the evening hours) to identify gaps in existing service and unmet needs.
- Schedule and facilitate one (1) stakeholder meeting to identify gaps in existing service and unmet needs.

Prepare Written Report

Develop at least two alternatives (not including status quo) for system design changes, including projections, strategies and solutions, with justification (including but not limited to: opportunities, advantages, disadvantages, barriers to and/or financial impacts of providing a seamless regional rural and urban transit system) for any recommended changes, a plan to guide CARTS through the next five (5) years of incremental system growth. In order to remedy the identified gaps in service and system capacity, each alternative must address the following:

- Needed changes in mode of delivery of service (including recommended route designs for fixed route services and management of para-transit services) to address community transportation needs.
- Needed changes in services offered (such as increased service hours and/or days, etc.), including justification for needed service changes, providing a projected estimated cost for proposed increased services, and correlate the needed service changes in conjunction with incremental changes outlined within the proposed alternatives.
- Needed changes in asset management (modification, procurements, etc.), including justification for needed asset changes, providing a projected estimated cost for proposed assets, and correlate the proposed asset changes in conjunction with incremental changes outlined within the proposed alternatives.
- Needed changes in staffing (positions and duties), including justification for needed staffing changes, providing a projected estimated cost for proposed staffing, and correlate the proposed staffing changes in conjunction with incremental changes outlined within the proposed alternatives.
- Any proposed organizational structure changes, with detailed explanation to summarize any recommended changes, including options for governance changes and any legislative actions needed to facilitate the coordination and consolidation of services at the regional level.
- Projections for needed local funding and identify options for local support to enable CARTS to navigate through the proposed changes.
- Maintain consideration for local coordination efforts and impacts to local stakeholders.
- Ensure compliance with local, state and federal regulations.
- Final project, including all required reports and all final presentations, must be completed no later than June 30, 2016.

DELIVERABLES

Reports and Documentation

1. Two (2) summary status reports, including any and all data, tables, analyses, spreadsheets, maps, graphics, etc., to be provided during milestone presentations to Craven County Management and others (such as the CARTS Director and staff, NBAMPO Transportation Advisory Committee), as deemed necessary; one (1) at the midway point during the needs analysis (upon completion of analyses and review of existing data) and one (1) at the conclusion of the needs analysis (upon completion of fact gathering activities).
2. One (1) final report [one (1) electronic copy and twenty (20) printed/bound copies], including any and all data, tables, analyses, spreadsheets, maps, graphics, etc., along with any interim reports, briefings, etc., utilized in the preparation of the final report to be included in digital format, to be presented during the final presentation made to Craven County Commissioners during a public meeting.

Final report must include a detailed Project Schedule outlining a detailed Implementation Timeline for each alternative (including all correlating elements within the Work Plan).

Project Presentations

Prepare five (5) presentations on the progress of the project:

1. A total of three (3) milestone presentations will be made to the Craven County Management and others (such as the CARTS Director and staff, NBAMPO Director, and Transportation Advisory Committee), as deemed necessary.
 - One (1) presentation* is to be made midway (as instructed in the Work Plan/Tasks 'Deliverables' section of this RFP);
 - One (1) presentation* is to be made after completion of the needs analysis (as instructed in the Work Plan/Tasks 'Deliverables' section of this RFP).
 - One (1) presentation* of the completed project will be made no later than **May 31, 2016**, prior the final presentations.

*These presentations may be facilitated through the use of an internet/telephone conferencing platform, provided relevant reports and other visuals are made available to attendees.

2. Two (2) final presentations will be made in person; one (1) to the Craven County Commissioners during a public meeting on **June 19, 2016**, (in which all relevant boards, committees, stakeholders, etc., in addition to the general public, are all offered accessibility, ample opportunity, and adequate advance notice to be present during the presentation), and one (1) to the Transportation Advisory Committee (TAC) at NBAMPO at the first meeting following the presentation to the Craven County Commissioners.

PROPOSAL REQUIREMENTS

Proposals shall conform to the following general format:

COMPANY BACKGROUND

This section should describe the qualifications of the firm. At a minimum, this section should contain:

1. The legal name of the firm, and if 'doing business as' (DBA), the name of the parent or controlling firm
2. Location of home or headquarters office, including parent or controlling firm location, if applicable
3. Location of office to service this account
4. Description of the firm's history
5. Organizational chart of the firm
6. Length of time in public transportation related business
7. Listing of subcontractors or other firms proposed to be utilized in the performance of this work
8. Evidence of financial stability and solvency satisfactory to Craven County/CARTS
9. A statement regarding why the company would be most qualified to perform this project

EXPERIENCE

This section should describe the experience of the firm and key personnel, and must clearly demonstrate that the proposer(s) understands the requirements and intent of this RFP.

At a minimum, this section should contain:

1. Job descriptions of key individuals assigned to the project. Job descriptions should be specific to the project.
2. Experience and qualifications of the firm, direct experience on projects of similar size, scope and complexity completed in the past five years, and resumes for each Project participant.
3. Experience and qualifications of all other firms proposed to be utilized in the performance of the work, if joint venture partners are proposed or if subcontractors are to be used for substantial portions of the work, and resumes for each Project participant.
4. Experience and qualifications of the project manager including the direct qualifications and experience of the project manager as he or she relates to this project and include at least two references with name, address, telephone number and contact person.
5. Experience and qualifications of the individuals directly involved in the study, their responsibilities in the project, involvement in similar studies and the time available for this project.

REFERENCES

This section should include business references of at least four (4) clients for which the consultant has performed similar work. The following information shall be provided for each reference:

(Note: The proposer authorizes CARTS to contact any person listed on this form for the purpose of investigating responsibility. Failure to provide complete information can be grounds for proposal rejection.)

PROPOSER INFORMATION:
a. Business Name:
b. Owner Name:

c. Business Address:	
d. Business Phone:	
Daytime:	Evening/Weekend:
Web address:	Email address:
e. Number of Employees:	Annual Sales \$:
f. Date Business Established:	
FOR THIS PROJECT ONLY:	
a. Name of Project Manager:	
b. Business Phone:	
Daytime:	Evening/Weekend:
c. Business Address:	
d. Email Address:	
COMPARABLE PROJECTS IN SIZE AND SCOPE:	
a. Name of Project:	
Project Location and Project Contact Person:	
Dates:	
b. Name of Project:	
Project Location and Project Contact Person:	
Dates:	
c. Name of Project:	
Project Location and Project Contact Person:	
Dates:	
d. Name of Project:	
Project Location and Project Contact Person:	
Dates:	

REFERENCES:	
a. Firm Name:	
Address:	
Name of Reference:	
Position Title:	
Telephone and Email:	
b. Firm Name:	
Address:	

Name of Reference:
Position Title:
Telephone and Email:
c. Firm Name:
Address:
Name of Reference:
Position Title:
Telephone and Email:

PROPOSAL ELEMENTS

All work described in the Scope of Work, Statement of Work, Proposal Requirements, required signature pages, and any required forms and certifications. Failure to comply with all requirements may result in the proposal being rejected as non-responsive.

COST PROPOSAL

Each proposal shall include a detailed cost budget for the project, including, but not limited to the following:

- Estimated hours, role and labor rate for each participant in the project
- Estimated contracted or sub-contracted service expenses (including purpose of contracted or sub-contracted services)
- Estimated travel expenses for each participant (identified per trip and trip purpose)
- Estimated material expenses (including printing, postage, etc.)

REQUIRED CERTIFICATIONS

Each proposal shall include the following certifications

- Completed Certificate Regarding Debarment and Suspension (see **ATTACHMENT 1: Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions**)
- Completed W9 Form (see **ATTACHMENT 3: W9 - Request for Taxpayer Identification Number and Certification**)

All proposers are also required to provide a **Certificates of Insurance**. A copy of certificate(s) of insurance shall be submitted with this proposal or prior to the commencement of the agreement providing the following assurances:

- Worker’s Compensation Insurance required by North Carolina law and any other state in which work will be performed, or letter of exemptions (submit with proposal).

Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the proposer from his liability under any other portion of the contract.

GENERAL INFORMATION

1. Proposers must employ sound technical analysis and industry best practices, as well as coordinate and seek concurrence in each step of the project with Craven County and CARTS staff.
2. Proposers are cautioned to verify their proposals before submission as request for amendments to proposals submitted, if received after such time specified for submission, will not be considered.
3. The successful proposal shall maintain all books, documents, accounting records and other evidence pertaining to the goods and services provided under this contract and make such materials available at its office and all responsible times during the contract period, and for five years (and as required by federal law and/or regulations) from the date of the completed project.
4. This RFP does not commit Craven County or CARTS to any costs incurred in the preparation of a proposal or the negotiations for the contract with any proposer. Further Craven County does not commit to a contract with any proposer and Craven County may cancel this solicitation at any time.
5. Proposals submitted for funding consideration must be consistent with and, if funded, conducted according to all applicable federal and state regulations as well as CARTS policies and procedures.
6. The award of a contract resulting from the RFP is subject to a financial assistance contract between Craven County and the FTA. The successful proposal will be required to comply with all terms and conditions prescribed for third party contracts in a grant agreement with FTA. Craven County reserves the right to reject any and all proposals.

PROJECT AWARD

Craven County will make a selection of the most qualified firm based on how well the firm's submittal conforms to the solicitation and represents the best value to CARTS. If Craven County does not choose to make a selection based on initial submittals, Craven County/CARTS may conduct discussions with those firms it determines to be within the competitive range, and to allow all such firms to submit submittal revisions

1. The evaluation Committee shall be composed of County Manager's designee, CARTS Director and staff, NBAMPO Director, and others requested by Craven County Management or the CARTS Director.
2. Preliminary review will include consideration of responsiveness to the RFP and shall be based solely on the written responses. Responsive proposers considered to be within the competitive range by the Evaluation Committee, will be notified of a time and place to make further presentation, if deemed necessary. Any presentation or interview by the proposers shall be at the sole expense of the proposers. Negotiations will take place after which the proposers will present their Final Proposal Revision (i.e., best and final offer).
3. In establishing scores for Final Proposal Revisions, Craven County may take into consideration information provided during interviews with proposers. Craven County reserves the right to award the contract based on the initial proposal without further discussions.

4. Negotiations will be in conformance with applicable federal, state and local laws, regulations and procedures
5. Contractor agrees to acknowledge that Craven County is an FTA grant recipient and the Contractor agrees to adhere to any and all terms and conditions of such a grant agreement as they relate to obligations the proposers would assume under this contract.
6. A proposer shall supply and/or execute such documents as Craven County may reasonably need to affect the purposes of this contract or to comply with federal applicable regulations.
7. If the successful proposer refuses or fails to execute the contract, Craven County may award the contract to another proposer whose proposals comply with all the requirements of the RFP and any addenda thereto. Craven County reserves the right to cancel an award immediately if new state or federal regulations or policy make it necessary to change the service purpose or content substantially or to prohibit any such goods and services. In the event of such change, CARTS will compensate for completed work at the time of change.
8. The objective of the negotiations will be to reach agreement on all provisions of the proposed contract, including contract price. Craven County also reserves the right to request documentation supporting the proposed contract price, including overhead rates for the firm and subcontractors.

WRITTEN CONTRACT

Any contract resulting from this Request for Proposal shall be evidenced by a written document fully executed with funding committed, prior to any work commencing. No contract activity may begin prior to the execution of a contractual agreement between the successful proposer and Craven County.

The contract shall contain, at a minimum, the following items;

1. Standard clauses and FTA assurances (See APPENDIX A)
2. Scope of work and nature of services to be provided
3. Timeline of all work completed and completion date
4. Responsibilities of both parties
5. Total amount of payment to be paid by Craven County
6. Method of billing and payment
7. A clause for inclusion by reference of the submitted proposal into contract

CONTRACT OBLIGATIONS & REQUIREMENTS

The contents of the RFP and the commitments set forth in the selected proposals shall be considered contractual obligations, if a contract ensues. Failure to accept these obligations may result in cancellation of the award. The contract will bind the proposer to furnish and deliver at the proposed price, and in accordance with conditions of said accepted proposal and specifications, for no more than **one hundred fifty (150) calendar days** after the opening of the proposal, with products and presentations completed by **June 30, 2016**.

SINGLE PROPOSAL RESPONSE

1. If only one proposal is received in response to the Request for Proposal, a detailed cost proposal may be requested of the single proposer. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

CHANGES TO RFP

If a respondent discovers any mistakes or omissions in the RFP, please notify Kelly Walker of CARTS by e-mail. Clarifications and corrections will be communicated by Addendum which will be published on the CARTS website www.cravencountync.gov/departments/trn.cfm.

PROPOSAL EVALUATION PROCEDURES

An Evaluation Team will review and analyze each proposal. Proposals will be evaluated and scored according to the following criteria: Max points (X) Quality Level = Score. The following criteria will be used in the evaluation of the proposals:

EVALUATION CRITERIA:

Evaluation Factors	Max Points	Quality Level	Score
Understanding of Project Parameters Understanding work to be performed (including knowledge of coordinated transportation, system design, metropolitan planning, rural and small urban transit agency participation and input) and the ability to perform within the expected time frame.	20		
Experience Experience of respondent including qualifications (education, experience and training), experience with similar planning efforts and meeting facilitation, etc.)	20		
Product – Work plan Proposer will provide a Transit Development Plan, compliant with all the specifications outlined in the RFP (complete with two alternatives), that will provide guidance for incremental growth with reasonable milestones and timelines, and solutions for unmet transportation needs within the urbanized service area.	30		
Presentation & Proposal Proposal is organized and responsive to all areas contained in the RFP; Proposer exhibits confidence and knowledge regarding the proposed products and services.	15		
Price/Cost Proposed price appears to be a reasonable, cost effective and detailed cost estimate. Total price represents value.	15		
TOTAL POSSIBLE			100

The Quality Level will be based on the following scoring method:

Quality Level	Points	Description
Excellent	100%	Meets all requirements; reflects significant enhancements or strengths as compared to minimum levels of acceptability; no offsetting weaknesses
Very Good	85%	Meets all requirements; reflects some enhancements or strengths; few if any offsetting weaknesses.
Good	75%	Meets all requirements; strengths and weaknesses, if any, tend to offset one another equally.
Fair	60%	May contain significant weaknesses only partially offset by less pronounced strengths; should meet all minimum requirements, but some areas of doubt may exist.

Poor	35%	Serious doubt exists about ability to meet minimum needs but may be sufficient; significant weaknesses without offsetting strengths.
Deficient	0%	Will not meet minimum needs.

Attachment A

FEDERAL AND STATE REQUIREMENTS AND SPECIAL CONDITIONS *for* PROFESSIONAL and ARCHITECTURAL & ENGINEERING SERVICES

1. General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement FTA MA (21), dated October 1, 2014, FTA Circular 4220.1F, dated November 1, 2008; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through October 2005; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R part 1201, dated December 19, 2014, will supersede and apply in lieu of U.S. DOT's common grant rules, 49 C.F.R. parts 18 and 19, State and Local Governments and Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and any subsequent amendments or revisions thereto.

**THE FOLLOWING MAY BE USED SYNONYMOUSLY:
"BIDDER" AND "CONTRACTOR"
"PURCHASER", "PROCURING AGENCY" AND "OWNER"**

2. Federal Changes

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

FTA's new authorizing legislation, MAP-21 made significant changes to FTA's public transportation programs. FTA has determined that:

(1) MAP-21 requirements apply to:

- a. New grants and cooperative agreements for which FTA awarded FY 2013 or a later fiscal year funds appropriated or made available to carry out MAP-21 programs,
- b. Amendments to existing grants and cooperative agreements for which FTA awarded funds made available or appropriated to carry out MAP-21 programs, and
- c. All "recoveries" funds FTA awards, irrespective of the fiscal year for which those funds were appropriated,

(2) Fiscal Year 2012 and previous fiscal year funding requirements apply as follows:

- a. In some instances, as determined by FTA, previous program requirements apply or will apply to grants and cooperative agreements for which FTA awarded Fiscal Year 2012 or a previous fiscal year funds, but
- b. In other instances, as determined by FTA, MAP-21 program requirements (including MAP-21 "cross-cutting requirements" identified in section 49 of this Master Agreement) apply or

will apply to grants and cooperative agreements for which FTA awarded Fiscal Year 2012 or a previous fiscal year funds.

3. Notification of Federal Participation

To the extent required by Federal law, the State of North Carolina agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of FTA assistance for the Program or the Project that it will identify the FTA grant source by listing the Catalog of Federal Domestic Assistance Number of the program. The following FTA grant programs will be eligible to participate in this bid, 20.505, 20.507, 20.500, 20.513, 20.509, 20.516, 20.519, 20.521, 20.525, and 20.526. Federal funding assistance up to eighty (80%) percent may be provided.

4. Definitions

Third Party Agreement, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following agreements, such as:

- (1) Third party contracts,
- (2) Leases,
- (3) Third party subcontracts; and
- (4) Other similar arrangements or agreements.

Third Party Participant, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following participants, such as:

- (1) Third party contractors,
- (2) Lessees,
- (3) Third party subcontractors, and
- (4) Other participants in the Project

5. Conflict of Interest

No employee, officer, board member, or agent of the Owner shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration (FTA) funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

6 Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract,

grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The requisite "Lobbying Certification" is included as ATTACHMENT A (attach Standard Form-LLL if necessary) and must be executed for contracts of \$100,000 or more and prior to the award of the contract.

7. Civil Rights

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(a) The third party contractor and all lower tiers shall comply with all provisions of FTA Circular 4702.1 "Title VI Requirements and Guidelines for Federal Transit Administration Recipients", issued October 1, 2012.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Religion, National Origin, Disability, Age, Sexual Origin, Gender Identity, or Status as a Parent - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act, 28 C.F.R. § 50.3, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," July 21, 2014, and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as “construction,” the Contractor agrees to comply and assures the compliance of each subcontractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

(3) **Nondiscrimination on the Basis of Age** – The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

(4) **Nondiscrimination on the Basis of Sex** - The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

(5) **Access for Individuals with Disabilities** - The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations “Transportation Services for Individuals with Disabilities (ADA)” 49 C.F.R. Part 37;
- (2) U.S. DOT regulations “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27;

- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
- (4) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;
- (6) U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;
- (9) U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
- (11) Federal regulations, "Miscellaneous Civil Rights Amendments (RRR)," pertaining to nondiscrimination on the basis of disability within 49 C.F.R. Parts 27, 37, and 38 were published in 79 Fed. Reg. 21402, April 16, 2014; and
- (12) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

(6) **Access to Services for Persons with Limited English Proficiency.** The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

(7) **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

(8) **Other Nondiscrimination Laws.** The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.

(9) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

(10) Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

8. Contracting with Disadvantaged Business Enterprises

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective October 1, 2004.

a. This contract is subject to the requirements of U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26 [U.S. DOT published final rule, "Disadvantaged Business Enterprise: Program Improvements," 49 C.F.R. Part 26, on January 28, 2011 (see 76 Fed. Reg. 5083)], and Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, as amended by Section 451 of the Hiring Incentives to Restore Employment (HIRE) Act, Pub. L. 111-147, March 18, 2010, 23 U.S.C. § 101 note.

Craven County's overall goal for DBE participation is **10%**.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the **Procuring Agency** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Procuring Agency. In addition, these may apply:

- **the contractor may not hold retainage from its subcontractors; or**
- **is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed; or**
- **is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Procuring Agency and contractor's receipt of the partial retainage payment related to the subcontractor's work.**

d. The contractor must promptly notify the **Procuring Agency** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the **Procuring Agency**.

9. Clean Air Act

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 306 of the Clean Air Act as amended, 42 U.S.C. § 7606, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. The Contractor agrees to report any violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the State and/or FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal Assistance provided by FTA.

10. Clean Water

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377, The Contractor agrees to report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

11. Environmental Protection (*requirements for environmental studies*)

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5323(c)(2)), as amended by MAP-21, ; U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; were published in the Federal Register, 78 Fed. Reg. 8963, February 7, 2013; and other applicable Federal environmental protection regulations that may be promulgated at a later date. The Contractor agrees to comply with the applicable provisions of 23 U.S.C. § 139 "Efficient environmental reviews for project decision making", pertaining to environmental procedures, and 23 U.S.C. § 326, pertaining to Purchaser's responsibility for categorical exclusions, in accordance with the provisions of joint FHWA/FTA final guidance, "Environmental Review Process (Public Law 109-59)," 71 Fed. Reg. 66576 *et seq.* November 15, 2006. Joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319 Accelerated Decision making in Environmental Reviews," dated January 14, 2013, and any applicable Federal directives that may be issued at a later date, except to the extent that FTA determines otherwise

in writing.

12. Environmental Justice (requirements for environmental studies)

The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note; as well as facilitating compliance with that Executive Order; and DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 *Fed. Reg.* 18377 *et seq.*, April 15, 1997, except to the extent that the Federal Government determines otherwise in writing; and the most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance.

13. Additional Environmental Requirements (requirements for environmental studies)

The Contractor agrees to comply with the following:

- Corridor Preservation. That development of right-of way acquired under 49 U.S.C. § 5323(q), as amended by MAP-21, will not occur in anticipation of its Project until all required environmental reviews for that Project have been completed;
- Use of Certain Public Lands. assures that it will comply specifically 49 U.S.C. § 303, which requires certain findings be made before an FTA-funded Project may be carried out that involves the use of any publicly owned land.
- Wild and Scenic Rivers. It will comply, with Federal protections for the national wild and scenic rivers system, 16 U.S.C. §§ 1271 – 1287,
- Coastal Zone Management. assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 – 1465,
- Wetlands. agrees to, and assures that it will, facilitate compliance with the protections for wetlands provided in Executive Order 119 No. 11990, as amended, "Protection of Wetlands," 42 U.S.C. § 4321 note,
- Floodplains. agrees to, and assures that it will, facilitate compliance with the flood hazards protections in floodplains provided in Executive Order No. 11988, as amended, "Floodplain Management," 42 U.S.C. § 4321 note,
- Endangered Species and Fishery Conservation agrees to comply, and assures that it will comply, with the protections for endangered species of The Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 – 1544,
- Hazardous Waste. assures that it will, facilitate compliance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 – 9675, which establishes requirements for the treatment of areas affected by hazardous waste
- Historic Preservation. agrees to, and assures that it will:
 - Comply with U.S. DOT laws, including 49 U.S.C. § 303, which requires certain findings be made before a Project involving the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places may be undertaken
 - Encourage compliance with the Federal historic and archaeological

preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f,

- Facilitate compliance with Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note,
- Comply with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. § 469a – 469c,
- Comply with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic Properties," 36 C.F.R. part 800, which requires the Recipient to:
 - Consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and
 - Notify FTA of affected properties, and
 - Comply with Federal requirements and follow Federal guidance to avoid or mitigate adverse effects on those historic properties, except as the Federal Government determines otherwise in writing,
- Indian Sacred Sites. agrees to assures that it will facilitate compliance with
 - The American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, "Indian Sacred Sites," 42 U.S.C.

14. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Sect. 6321 et seq.

15. Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

16. Debarment and Suspensions

This contract is a covered transaction for purposes of 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2 CFR 180.940, 180.935 and 180.945.

The contractor is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the **Procuring Agency**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **Procuring Agency**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The Procuring Agency agrees and assures that its third party contractors and lessees will review the "System for Award Management" at <https://www.sam.gov/> before entering into any sub-agreement, lease or third party contract.

The Procuring Agency will be reviewing all third party contractors under the "System for Award Management" at <https://www.sam.gov/> before entering into any contracts.

If the Procuring Agency, recipient, or subrecipient suspends, debars, or takes similar action against a Third Party Participant or individual, the Agency, recipient, or subrecipient will provide immediate written notice to the:

- (a) NCDOT/Public Transportation Division,
- (b) FTA Regional Counsel for the Region in which the Agency is located or implements the Project,
- (c) FTA Project Manager if the Project is administered by FTA Headquarters Office, or
- (d) FTA Chief Counsel.

The requisite Debarment and Suspension Certification is included as ATTACHMENT B (attach additional statement if necessary) and must be executed for contracts of \$25,000 or more and prior to the award of the contract.

17. Termination or Cancellation of Contract

The Owner, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the project. If this contract is terminated, the Owner shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

The Owner may terminate this contract in whole or in part, for the Owner's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Owner shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other

information and materials accumulated in performing this contract, whether completed or in process. A 30-day notice of termination shall be required.

If the termination is for the convenience of the Owner shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Owner may complete the work by issuing another contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Owner.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

18. Breach of Contract

If the Contractor does not deliver the required services or the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Owner may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Owner that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Owner, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

The Owner in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the Contractor fails to remedy to Owner's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from Owner setting forth the nature of said breach or default, The Owner shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Owner from also pursuing all available remedies against Contractor and its sureties for said breach or default.

If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of FTA is required.

If a legal matter as described above emerges, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or FTA Regional Counsel for the Region in which the Recipient is located and the NCDOT.

19. Resolution of Disputes

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Owner. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized representative of the Owner. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of the Owner shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the Owner, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Owner and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Owner is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

20. Protest Procedures

GENERAL

Protests may be made by prospective proposers whose direct economic interest would be affected by award of a contract or by failure to award a contract. Craven County/CARTS will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award.

All protests are to be submitted in writing to:

Craven Area Rural Transit System
2822 Neuse Blvd.
New Bern, NC 28562

Protest submissions should be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following information:

- (a) Name, address, and telephone number of protestor,
- (b) Identification of contract solicitation number,
- (c) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and
- (d) A statement as to what relief is requested.

Protests must be submitted to CARTS in accordance with these procedures and time requirements, must be complete and contain all issues that the protestor believes relevant.

PROTESTS BEFORE PROPOSAL OPENING

Protests alleging restrictive specifications or improprieties which are apparent prior to proposal opening or receipt of proposals must be submitted in writing at the address above and must be received at least seven (7) days prior to proposal opening or closing date for receipt of proposals. If the written protest is not received by the time specified, proposals may be received and an award made in the normal manner unless Craven County/CARTS determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. Craven County/CARTS may request additional information from the appealing party and information or response from other proposers, which shall be submitted to CARTS not less than ten (10) days after the date of the request made by Craven County/CARTS. So far as practicable, appeals will be decided based on the written appeal, information and written response submitted by the appealing party and other proposers. Failure of any party to timely respond to a request for information, may be deemed by Craven County/CARTS that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such a case, the protest will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent evaluation that Craven County/CARTS deems appropriate, Craven County/CARTS shall either:

- a) Render a final decision, or
- b) At the sole election of Craven County/CARTS, conduct an informal hearing at which the interested parties will be afforded opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, if one is held, Craven County/CARTS will render a decision, which shall be final, and notify all interested parties thereof in writing but no later than ten (10) days from the date of informal hearing.

PROTESTS AFTER PROPOSAL OPENING/PRIOR TO AWARD

Protests against the making of an award by Craven County/CARTS must be submitted in writing to CARTS and received within seven (7) days of the award by Craven County/CARTS. Notice of the protest and the basis therefore will be given to all proposers. In addition, when a protest against the making of an award by Craven County/CARTS is received and it is determined to withhold the award pending disposition of the protest, the proposers whose proposals might become eligible for award shall be requested, before expiration of the time for acceptance, to extend or to withdraw the proposal. Where a written protest against the making of an award is received in the time period specified,

award will not be made prior to seven (7) days after resolution of the protest unless Craven County/CARTS determines that:

- a) The items to be purchased are urgently required;
- b) Delivery or performance will be unduly delayed by failure to make award promptly; or,
- c) Failure to make award will otherwise cause undue harm to Craven County/CARTS or the federal government.

PROTESTS AFTER AWARD

In instances where the award has been made, the proposer shall be furnished with the notice of protest and the basis therefore. If the proposer has not executed the contract as of the date the protest is received by CARTS, the execution of the contract will not be made prior to seven (7) days after resolution of the protest unless Craven County/CARTS determines that:

- a) The items to be purchased are urgently required;
- b) Delivery or performance will be unduly delayed by failure to make award promptly; or,
- c) Failure to make award will otherwise cause undue harm to Craven County/CARTS or the federal government.

DECISION

Any decision pertaining to a protest following the guidelines contained in this section is final.

PROTESTS TO FEDERAL TRANSIT ADMINISTRATION (FTA)

Under certain limited circumstances, an interested party may protest to the FTA the award of a contract pursuant to an FTA grant. FTA's review of any such protest will be limited to:

- a) Alleged failure by Craven County/CARTS to have written protest procedures or alleged failure to follow such procedures; or,
- b) Alleged violations of specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation.

In such cases, protestors shall file a protest with FTA not later than five (5) Federal working days after Craven County/CARTS renders a final decision under Craven County/CARTS protest procedure. In instances where the protestor alleges that Craven County/CARTS failed to make a final determination on the protest, the protestor shall file a complaint with FTA no later than five (5) Federal working days after the protestor knew or should have known of Craven County/CARTS's failure to render a final determination in the protest.

SUBMISSION OF PROTEST TO FTA

Protests submitted to FTA, with a concurrent copy to CARTS, should be submitted to:

FTA Region 4
230 Peachtree NW, Suite 800
Atlanta, GA 30303

The protest filed with FTA shall:

- a) Include the name and address of the protestor;
- b) Identify the Craven County/CARTS project number and the number of the contract solicitation;

- c) Contain a statement of the grounds for protest and any supporting documentation, that details the alleged failure to follow Craven County/CARTS's protest procedures, or the alleged failure to have procedures, and be fully supported to the extent possible; and,
- d) Include a copy of the local protest filed with CARTS and a copy of the CARTS decision, if any.

21. No Federal Government Obligations to Third Parties

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to 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.

22. False or Fraudulent Statements or Claims

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with this Project. Accordingly, upon execution of the underlying contract or agreement the Contractor certifies or affirms 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 or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement involving a project authorized under 49 U.S.C. chapter 53 or any other Federal statute, the Federal Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 or other applicable Federal statute to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract 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 subcontractor who will be subject to the provisions.

23. Record Retention and Access to Records and Reports

The Contractor agrees to permit, and require its subcontractors to permit, the U.S. Secretary of Transportation, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts

of the Contractor and its subcontractors pertaining to the Project, as required by 49 U.S.C. § 5325(g).

Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S. D. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5303, 5307, 5309, 5310, 5311, 5316, or 5317.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The State of North Carolina, Office of the State Auditor, now requires that all records now be retained for five (5) years after that date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

24. Patents and Rights in Data - CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK - ONLY

A. Rights in Data - These following requirements apply to each contract involving experimental, developmental, or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) Effective December 19, 2014, the Super circular, 2 C.F.R. part 1201 did not retain the common rule provision with respect to program income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project which are developed under a research project.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (e), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the - Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition, of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents, of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) Therefore, when the Project is completed, the Contractor agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the Contractor agrees to provide other reports pertaining to the Project that FTA may request. The Contractor agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA.

(5) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - These following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

25. Privacy

To the extent that the Contractor, or its subcontractors, if any, or any to their respective employees administer any system of records on behalf of the Federal Government, Contractor agrees to comply with, and assure the compliance of its subcontractors, if any, with the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sect. 552, (the Privacy Act).

The Contractor shall obtain the express consent of the Department and the Federal Government before the Contractor, and any subcontractors, or any of their respective employees operate a system of records on behalf of the Federal Government. Failure to do so may result in termination of the Contract and civil and criminal penalties for violation of the Privacy Act.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

26. National Intelligent Transportation Systems Architecture and Standards

To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards requirements of 23 U.S.C. § 517(d), as amended by MAP-21, and follow the provisions of FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing. *(applicable to ITS projects)*

27. Architectural, Engineering or Related Services

In accordance with 49 U.S.C. § 5325(b), the Contractor agrees to comply with the following requirements pertaining to the procurement of architectural engineering or related services that will be financed with Federal assistance authorized under 49 U.S.C. chapter 53 or required by Federal law to be administered in accordance with 49 U.S.C. chapter 53:

- (1) When procuring architectural engineering, or related services, the Contractor agrees that it and its subcontractors at any tier will:
 - (a) Negotiate for architectural engineering or related services in the same manner as a contract for architectural engineering, or related services is negotiated under chapter 11 of Title 40, United States Code, or
 - (b) Comply with an equivalent State qualifications-based requirement for contracting for architectural engineering, or related services, provided the State has adopted by law such requirement before August 10, 2005.
- (2) Upon awarding a contract for architectural engineering or related services, the Contractor agrees that it and its subcontractors at any tier will:
 - (a) Perform and audit the third party contract or the third party subcontract in compliance with the cost principles of the FAR as set forth in 48 C.F.R. Part 31.
 - (b) Accept the indirect cost rates established by a cognizant Federal or State government agency in accordance with the FAR for one-year applicable accounting periods, if those rates are not currently under dispute.
 - (c) Will use indirect cost rates accepted by a cognizant Federal or State government agency for contract or subcontract for purposes of contract estimation, negotiation, administration, reporting, and contract payment without limitation by administrative or de facto ceilings, and
 - (d) In compliance with 49 U.S.C. § 5325(b)(2)(D), agrees and assures that it and the members of any group of entities sharing cost or rate data described in section 17.r(2)(c) of this Master Agreement shall:
 1. Notify any affected firm before requesting or using that data,
 2. Maintain the confidentiality of that data, and assure that it is not accessible or provided to others, and
 3. Not disclose that data under any circumstances if doing so is prohibited by 49 U.S.C. § 5325(b) or other law.

28. Seismic Safety

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 *et seq.*, and the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 C.F.R. Part 41, specifically, 49 C.F.R. § 41.117. The contractor also agrees to certify to the extent required by the regulation to ensure that all

work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and that the certification of compliance issued on the project and will facilitate and follow Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, except as the Federal Government determines otherwise in writing. *(applicable to A&E contracts)*

29. Supervision of Construction

Competent and adequate engineering supervision will be maintained at the construction site of the Project to ensure that the completed work conforms to the approved plans and specifications. *(applicable to A&E contracts)*

30. State and Local 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 grantees procurement documents, the grantees should consult with their local attorney.

31. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, 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 Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

32. Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Owner of this Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the Owner or it's agents who are involved in the delivery or processing of contractor goods to the Owner. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

33. Safe Operation of Motor Vehicles

a. Seat Belt Use.

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts, leases or similar documents in connection with this project.

b. Distracted Driving, Including Texting While Driving.

Consistent with Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. Section 402 note, and DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009, FTA encourages each third party contractor to promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in any third party subcontract leases or similar documents in connection with this project.

c. Safety. The Contractor is encouraged to:

- (a) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

Company-owned or rented vehicles; Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or any vehicle, on or off duty, and using an electronic device.

- (b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(c). Definitions

(1) “Driving” means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. “Driving” does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) “Text Messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

34. Metric System

To the extent required by U.S. DOT or FTA, the Contractor agrees to use the metric system of measurement in its Contract activities as may be required by 49 U.S.C. Sect. 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. Sect. 205a; and other regulations, guidelines and policies issued by U.S. DOT or FTA. To the extent practicable and feasible, the Contractor agrees to accept products and services with dimensions expressed in the metric system of measurement.

35. Geographic Information and Related Spatial Data.

In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, and OMB Circular A-16, Supplemental Guidance "Geospatial Line of Business," November 10, 2010, the Contractor agrees to implement this Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, are consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

36. Exclusionary or Discriminatory Specifications or Requirements

The Contractor agrees that it will comply with the requirements of 49 U.S.C. Sect. 5325(h) by refraining from using any funds derived from FTA in performance of this Contract to support any sub-contracts using exclusionary or discriminatory specifications or requirements.

37. North Carolina State Ethics Requirement

Pursuant to Governor Perdue's Executive Order # 24, this section should be included in the terms and conditions of all contracts let by the Governor's Cabinet Agencies and the Office of the Governor:

- 1) "By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:
 - (1) have a contract with a governmental agency; or
 - (2) have performed under such a contract within the past year; or
 - (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and

contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.”

To be added near the signature portion of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

“N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.”

38. Sensitive Security Information

Each third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with “The Homeland Security Act”, as amended, specifically 49 U.S.C. Section 40119(b), The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 15, and U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 1520.

39. NC E-Verify Requirements

To ensure compliance with the E-Verify requirements of the General Statutes of North Carolina, all contractors, including any subcontractors employed by the contractor(s), by submitting a bid, proposal or any other response, or by providing any material, equipment, supplies, services, etc., attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS64-26(a)) relating to the E-Verify requirements by executing and submitting the E-verify Affidavit included in this Invitation for Bids as Attachment C.

40. Iran Divestment Act

N.C.G.S. 147-86.59 requires that all bids or contracts or renewals with the State of North Carolina, North Carolina local governments, or any other political subdivision of the State of North Carolina have a certification that the contractor is not on the Final Divestment List as created by the NC State Treasurer pursuant to N.C.G.S. § 147-86.58. In compliance with the requirements of the Iran Divestment Act 2015 and N.C.G.S. § 147-86.55 and 147-86.59, the Contractor shall not utilize the performance of the contract any subcontractor that is identified on the Final Divestment List.

The State Treasurer’s Final Divestment List can be found on the State Treasurer’s website: www.nctreasurer.com/Iran and will be updated every 180 days.

Effective February 26, 2016. ***(See Attachment D – Must be completed with all contracts over \$1,000)***

ATTACHMENT B

CERTIFICATION REGARDING LOBBYING

(To be submitted with all bids or offers exceeding \$100,000; must be executed prior to Award)

The undersigned _____ certifies, to the best of his or her knowledge and belief, that:
(Contractor)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding to any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transactions imposed by 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Section A 3801 *et seq.*, apply to this certification and disclosure, if any.

Date

Signature of Contractor’s Authorized Official

Name and Title of Contractors Authorized Official

Subscribed and sworn to before me this ___ day of _____, 20___, in the State of ;
and the County of _____.

Notary Public _____

My Appointment Expires _____

ATTACHMENT C

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY and VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION
*(To be submitted with all bids exceeding \$25,000.)***

- (1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

ATTACHMENT D

STATE OF NORTH CAROLINA
CRAVEN COUNTY

AFFIDAVIT OF COMPLIANCE WITH N.C. E-VERIFY STATUTES
(To be submitted with all bids)

I, _____ (hereinafter the "Affiant"), duly authorized by and on behalf of _____ (hereinafter the "Employer") after being first duly sworn deposes and says as follows:

1. I am the _____ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3. Employer employs 25 or more employees, and is in compliance with the provisions of N.C. General Statute §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.

 Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. General Statute §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. General Statute §64-26.
5. Employer shall keep the State of North Carolina informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina Statutes.

This ____ day of _____, 20____.

Signature of Affiant

Printed Name and Title

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

(SEAL)

My Appointment Expires _____

ATTACHMENT F

PROPOSER CHECKLIST

Responses to the RFP must correlate with the alpha numeric characters and order of items in the Proposer Checklist. Each Response to this RFP must contain a table of contents. Each item in the RFP should be addressed in the proposal.

A. TABLE OF CONTENTS WITH PAGE NUMBERS	
B. Transmittal Letter	
C. Executive Summary (proposer must include a brief executive summary to summarize the highlights of the proposal.)	
D. Complete Proposer Checklist (proposer must include this completed checklist.)	
E. Proposer Information	
F. Project Information	
G. Comparable Projects in Size & Scope	
H. References	
I. Company Detail & Questions	
J. Certificates of Insurance	
K. BWC Certificate	
L. Certification Regarding Suspension & Debarment (See Attachment 1)	
M. Acknowledgement of Addenda: Should addenda relative to this RFP be released by CARTS, proposer must include a signed acknowledgment of receipt for each addendum	
N. Executed Contract Signature Page	
O. Completed W9 Form (See Attachment 3)	

ATTACHMENT G

Form W-9 – Request for Taxpayer Identification and Certification

Form W-9 (Rev. August 2013) Department of the Treasury Internal Revenue Service	<h2 style="margin:0;">Request for Taxpayer Identification Number and Certification</h2>	Give Form to the requester. Do not send to the IRS.
Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		
Part I Taxpayer Identification Number (TIN)		
Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.		
		Social security number _____ - _____ - _____
Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.		Employer identification number _____ - _____
Part II Certification		
Under penalties of perjury, I certify that:		
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined below), and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.		
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.		
Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
General Instructions		
Section references are to the Internal Revenue Code unless otherwise noted. Future developments. The IRS has created a page on www.irs.gov/w9 for information about Form W-9, at www.irs.gov/w9 . Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.		
Purpose of Form		
A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.		
Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:		
1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify that you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the		
withholding tax on foreign partners' share of effectively connected income, and 4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.		
Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.		
Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:		
<ul style="list-style-type: none"> • An individual who is a U.S. citizen or U.S. resident alien, • A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, • An estate (other than a foreign estate), or • A domestic trust (as defined in Regulations section 301.7701-7). 		
Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.		
Cat. No. 10231X	Form W-9 (Rev. 8-2013)	

ATTACHMENT H

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

The undersigned Proposer hereby acknowledges receipt of the following Addenda:

<u>Addendum Number</u>	<u>Dated</u>	<u>Acknowledge Receipt</u> (initial)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

No addenda were received

Acknowledged for: _____
(Name of Bidder)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type)

Title: _____

Date: _____