

REQUEST FOR PROPOSALS

Cabarrus County Long Range Public Transportation Master Plan

RFP # 010518

The Cities of Concord and Kannapolis, and Cabarrus County invite proposals from qualified firms or teams to provide consulting services in connection with our request to complete a Long Range Public Transportation Master Plan while improving the coordination, financial position, and operational functionality and service delivery of the Demand Response and Fixed Route transit providers operating within Cabarrus County, NC over the next 20 years.



Proposals must be received no later than 5:00 PM on Friday, February 9th, 2018.

Any proposal received or postmarked after the date and time specified above will be rejected, considered non-responsive, and will not be opened.

1.0 Overview

The Cities of Concord and Kannapolis, and Cabarrus County, one of the fastest growing urbanized areas in the United States, are requesting an analysis of the current and future needs of public transit services in and around Cabarrus County. We are seeking proposals from experienced firms with demonstrated expertise and performance in long-range transit system planning, transit operational analysis, public engagement, and the integration of land use, demographic, employment, financial, and multimodal transportation system considerations in transit planning to prepare a Long Range Public Transportation Master Plan. We desire that a roadmap be developed to expand and improve the provision of public transportation services within Cabarrus County over the next 20 years.

Currently, both Demand Response (Cabarrus County Transportation Services – known locally as CCTS) and Fixed Route and ADA Paratransit (Concord Kannapolis Area Transit – known locally as Rider), operate within Cabarrus County. This study looks to find ways to enhance and build upon these services, improve coordination, analyze the advantages and disadvantages of consolidation of services, and plan over a 20-year span the likely transit service and funding needs of our area. This study will inform decision-making in the county so that scarce resources may be allocated in the most efficient and effective manner to deliver transit services today, while seeking means to develop additional resources to properly plan for and manage future demand and growth of public transit both within Cabarrus County, as well as regionally. Parameters to be analyzed shall encompass service delivery, fiscal, staff, capital needs including facilities, vehicles and technology, customer service, and future service expansion, including potential new modes such as Light and/or Commuter Rail, Bus Rapid Transit, Express Bus Routes, and Vanpooling. The work elements should employ sound technical analysis and industry best practices. During the process, coordination with the Steering Committee and staff of the two public transit providers will be necessary.

Specifically, the objectives of this study are to:

- Analyze current transit needs, gaps and areas of potential improvement and enhancement; analyze the projected future population growth and service needs; determine the transit options required to effectively serve that need both within Cabarrus County as well as how to best connect with the greater Charlotte region over a 20 year horizon;
- Develop a plan that helps educate, inform and support the development of a cohesive, coordinated long term vision for investment in public transit in Cabarrus County; identifies opportunities, advantages, disadvantages, and barriers to enhancing services and/or expanding services provided now through 2038;
- Improve coordination and operational efficiency of the two current public transit organizations, examine the potential benefits and shortcomings of consolidating the existing Demand Response and Fixed Route transit systems; determine viable options moving forward for governance, oversight and management; examine opportunities for enhanced regional coordination with neighboring public and private transit systems and providers;
- Provide an analysis of needs in terms of service delivery, financial, staffing, real property and other capital, including rolling stock, infrastructure, technology, customer service, governance, and future expansion (including additional modes);
- Analyze current funding mechanisms, current and long term funding needs, provide a shortfall analysis, and determine potential new sources of funding necessary to meet projected needs;
- Prepare a plan for short (0-5 years), medium (5-10 years), and long term (10-20 years) steps to

guide implementation and service delivery enhancements;

- Discuss full and limited funding alternatives;
- Coordinate with and seek concurrence in each step of the project with the project steering committee.

Concord, Kannapolis, and Cabarrus County seek the assistance of a professional consultant team to achieve these objectives and further refine a scope of work that will allow the region to move forward with decision-grade information regarding improved countywide and regional transit service delivery over the next 20 years.

2.0 Introduction

The Concord Urbanized Area (UZA), and Cabarrus County in particular, is adding population and jobs rapidly, with significant growth expected to continue over the next 25 years. Cabarrus County is projected to increase in population by 160,000 people (up 89.88% from 2010 Census numbers) by 2035. Because of this growth, more people will be commuting to work, seeking access to educational opportunities, more senior citizens will be traveling to medical appointments, and more freight will be traversing the region on capacity-constrained corridors. Cabarrus County's unique characteristics – geographic location, cost of living, employment opportunities, population demographics, development patterns & policies, political environment and rapid growth create myriad challenges and opportunities for the area as whole and public transit in particular.

It is imperative to successfully accommodate this growth in population and travel demand and help Concord, Kannapolis and Cabarrus County develop and maintain an a quality of life that helps our area compete on a national level in terms of being a desirable place to live and work. The Cities of Concord, Kannapolis and Cabarrus County seek professional consulting services to conduct an evaluation to determine the options for and feasibility of improving public transportation within the study area. We seek what we need to do to provide a level to public transit service appropriate to current and projected future growth of our area, providing local decision-makers with a roadmap to enhance transit service delivery to the region over the next 20 years.

The City of Concord (FTA ID #6288) is the Designated Recipient for FTA funds in the Concord UZA and is responsible for the overall coordination of the regional transportation planning process and project programming and development activities through the operation of the Cabarrus Rowan MPO. The transit agencies are responsible for transit operational and strategic planning, including program administration, marketing, operational, and planning studies, transit asset management and capital investments, and financial planning related to management and operations of the transit systems.

3.0 Current Transit Services in Cabarrus County

Cabarrus County is currently served by two public transit providers: Concord Kannapolis Area Transit (Rider) and Cabarrus County Transportation Service (CCTS). Rider provides fixed route service and complementary paratransit service in the two largest cities in the county, Concord and Kannapolis, which fund and manage Rider Transit. Rider operates seven bus routes and currently carries approximately 410,000 Fixed Route and 10,500 Paratransit passengers each year. Hours of service are Monday-Friday, 5:30am to 8:30pm and Saturday and Sunday, 8:30am to 8:30pm. CCTS provides Demand Response services (Human Services, Aging, and Rural General Public) countywide Monday-Friday, 5:00am to 6:00pm, Saturdays from 5:00am to 12:00pm, and carries over 85,000 passengers per year. Cabarrus County funds and manages the activities of CCTS. Regular requests for additional service from both

systems are hampered by a lack of additional funding resources to meet those needs.

In addition to these services operating within Cabarrus County, there are limited regional transit connections as well. There is currently limited one-way commuter service provided by Charlotte Area Transit System (CATS) in partnership with the City of Concord. This service, the CATS 80X, runs Monday-Friday only, and provides four trips in the morning (Concord to Charlotte) and four trips in the afternoon/early evening (Charlotte to Concord), providing the only current public transit link between Cabarrus and Mecklenburg counties. That service will be replaced in March 2018 by a new 7 day a week, regional express bus service known as the Concord Charlotte Express (CCX), which will be a joint partnership between the cities of Concord, Kannapolis and CATS, which will be operated by Rider Transit. This new service will link the Rider Transit Center to the new CATS Blue Line Extension JW Clay Light Rail Station. The Rowan Transit System provides the Rowan Express service between Salisbury, China Grove, Landis, and Kannapolis (which are joint funding partners), connecting Salisbury Transit and Rowan County with Rider Transit and Cabarrus County. Rowan Express operates five morning trips and five afternoon/evening trips, Monday-Friday, linking Cabarrus and Rowan counties at the Kannapolis Transit Station. Enhancing and expanding these and other viable regional connections, via current and/or new public transportation modes such as rail, bus rapid transit (BRT), vanpooling or other methods, is a primary goal of this project.

Cabarrus County has six incorporated jurisdictions: Concord, Kannapolis, Harrisburg, Locust, Midland, and Mt. Pleasant. According to the 2010 Census, 214,881 people resided in the Concord UZA, 178,011 in Cabarrus County. The 2016 population of Cabarrus County has already grown to 201,624. With a current forecasted growth rate of nearly 90% percent in the next two decades, Cabarrus County's population is expected to increase to 338,000 people by 2035. The Metrolina area, including the Charlotte UZA and Concord UZA, is one of the fastest growing in the country and is expected to continue to be through 2050. These population growth factors, coupled with the increasingly congested travel already being experienced today, present both a challenge and opportunity to examine options to improve public transportation services to the residents and visitors of Cabarrus County as our area continues its meteoric growth.

Transit service will be essential as part of a comprehensive strategy for effectively accommodating that growth, managing transportation demand, and creating more economically competitive and livable communities. As transit service in Concord, Kannapolis and Cabarrus County continues to serve a more prominent role in the coming years, information on ways to effectively address the increasing need for more public transit in the face of static or shrinking funding sources are paramount for good decision-making.

4.0 Study Description

The overall goal of this study is to identify current and future unmet needs and opportunities to expand public transit opportunities across the county, while improving regional connectivity. We desire a detailed implementation strategy that will increase the efficiency and delivery of transit service within Concord, Kannapolis and across Cabarrus County, now and in the future. To accomplish this, the study will assess existing conditions and identify opportunities to realize cost efficiencies, improve quality and frequency of service, connectivity, and accommodate the growth of local and regional multimodal travel demands, including fixed route, demand response, and fixed guideway (commuter rail/light rail/bus rapid transit) options, with an emphasis on maintaining and improving customer service. In concert with the operations and management orientation of this study, the steering committee recognizes that the ultimate goal for any transit system is to increase ridership and create an efficient transportation infrastructure for the region. All of the efforts and recommendations of the committee are focused on ways to make public transit service attractive and useful to more people in the County and the greater Charlotte region as a primary travel option.

This study will identify programmatic, administrative, operational, and legislative actions to facilitate the coordination and enhancement of transit service in Cabarrus County over the next 20 years. This study will include opportunities for collaboration and coordination that may not be currently utilized, and a benefit/cost analysis of potential integration of transit systems countywide. Firms should draw upon best practices from other states and areas familiar with similar explosive population growth. This plan is expected to provide recommendations to facilitate the implementation of a systematic plan to invest in, expand, and improve public transit in the study area over the next two decades. The final product will serve as a roadmap to guide its implementation for each stakeholder.

The following themes represent the basis of the need for the project:

- Need for transit improvements established by previous studies
- Transit usage within the study area
- Significant transit dependent populations
- Regional population and employment growth and future service expansion
- Financial sustainability
- Travel demand and patterns
- Peak-Hour congestion on roadways
- Transit supportive land use policies and conditions

As Cabarrus County and the greater Charlotte area continues to infill and develop, transit trips and options need to become more regional and seamless in nature, and transit organizations need to be able to respond effectively to the changing environment. Current and new service needs (Regional Express Bus, Vanpool, BRT, Commuter, and/or Light Rail) to be provided in and effectively coordinated between the cities, suburbs, towns, and unincorporated rural areas need to be accommodated and coordinated effectively for the good of the entire community.

The maximum budget for this project is \$150,000.

5.0 Scope of Work

This comprehensive Long Range Public Transportation Master Plan must address to goals and tasks outlined in this RFP, and include the following:

1. Executive Summary
2. An overview and demographic analysis of the region (current and projected out to the 20 year horizon year - 2038); must include a summary comparison of three to five case studies of peer areas that have recently or are currently experiencing similar population growth and how they have successfully dealt with enhancing public transit options to meet that growth
3. Development of a long term vision, goals and objectives for public transit countywide
4. A robust public participation engagement plan to ensure inclusion and participation of a diverse cross section of our communities to include, but not limited to, current public transit users, non-users, area stakeholders, LEP populations and fixed route and demand response transit drivers and operations staff. Non-traditional means of engagement, including focus groups, technology, social media and other forms of effective public engagement tools are encouraged to ensure broad community participation and buy in
5. Performance evaluation of existing transit services; staffing needs assessment, recommendations for improved coordination and/or consolidation of services and recommended governance structure
6. Current and future demand estimation and needs assessment, including an inventory of unserved or underserved areas, times and populations/stakeholders and potential new service delivery

options and capital and infrastructure needs

7. Transit alternatives and recommendations including both a full funding and financially constrained 5, 10 and 20-year capital and operating plan.
8. Analysis of current and potential new funding sources and policy change recommendations required to implement the recommendations set forth in the plan options.

The scope of services covered in this RFP should assist Concord, Kannapolis, and Cabarrus County in producing a Comprehensive Transit Investment Strategy for the county. The selected consultant is required to produce a plan that accomplishes the following:

- Creates a Community and Stakeholder Supported Purpose and Community Vision for Public Transportation Investments
- Creates a Transit Network Service Plan
- Creates a Governance Framework that Ensures Adequate Oversight of and Investment in Transit
- Creates a Finance and Investment Strategy.

Proposed strategies will recommend an approach for improving the overall transit network and investment in transit corridors within a defined funding horizon (2038). Strategies must address appropriate investment in urban, suburban, rural, and small town areas consistent with the vision and goals of this RFP.

A consultant shall conduct interviews and surveys with community members and stakeholders to establish expectations and issues of governance. The makeup of survey participants shall be balanced geographically, demographically, and economically.

Funding Investment Scenarios - The selected firm shall compile the information gathered and produce multiple funding investment scenarios. The scenarios should fall into two plans; fiscally unconstrained and fiscally constrained using available cost and revenue information. The scenarios should examine the impact of current and potential future funding sources on when and what investment can be made.

6.0 Requested Information and Proposal Format

Technical proposals should not exceed thirty (30) single sided pages (15 if double sided) in length. An appendix including the resumes of proposed project staff must be included in addition to the main proposal document. Supplemental promotional items, work samples, and general firm information may be provided in the appendix following the resumes. All proposals shall be submitted in a format which follows the general framework outlined below. In preparing submissions, respondents should describe in detail the services proposed and how service delivery will be accomplished.

1. Introduction: A brief introduction of the individual(s) and/or firm(s) involved in the proposal and relevant experience with similar projects. This letter should confirm an understanding of and overview of the team's approach to this specific project.
2. Work Plan: A detailed work plan and timeline of proposed project tasks and work products, including at a minimum an Executive Summary and Final Plan Document. The work plan must show how the goals and tasks outlined in this RFP will be accomplished and the format of the work products. The work plan is encouraged to show additional innovative and creative tasks or work products beyond those requested in this RFP that would improve this project's ability to fulfill the stated objectives.
3. Personnel: Tasking of personnel including expertise and qualifications of key team members

assigned to the project should be included. A project manager should also be identified. Changes in the consultant staff during the 90 days following the date of receipt from what was identified in the proposal will be considered a change of scope and will be grounds for rejection of the proposal and/or termination of the contract. Please list all current or anticipated assignments of the staff proposed for this project.

4. References: Provide a list of past clients for whom the firm has performed work of a similar nature. For each project reference include a current contact name, phone number, and address. Include a minimum of three and no more than five references.
5. Budget: Provide in a separate, sealed envelope a detailed breakdown of the proposal cost including (at a minimum): Personnel costs by staff person assigned, estimated total hours dedicated to this project necessary to meet project goals and requirements, travel expenses, printing costs, subcontractors (if applicable), other direct expenses, general/administrative overhead, fixed fee and total proposal cost.

The final project deliverable will consist of thirty-five (35) hard copies each of the Executive Summary and Final Plan Document. In addition, three (3) USB drives or similar media with copies of the Executive Summary and Final Plan Document, and all data, analyses, interim reports, briefings, presentations, and supporting documentation collected and/or utilized in the preparation of the final reports shall be included in digital format. Note: The Consultant will be required to assist local staff with the presentation of the plan and participate in a joint meeting with each of the three vested municipal governing bodies to present a summary of the findings and recommendations of this study. **An optional pre-bid meeting will be held at the Rider Transit Center (3600 S. Ridge Avenue, Concord, NC) on Wednesday, January 24th, 2018 at 1:00pm to answer any questions regarding the RFP scope and requirements.** This meeting is not mandatory; discussions in the meeting are not binding; written responses to questions and answers from the meeting will be posted on the Rider Transit web site (<http://www.ckrider.com/about-us/#doing-business>) and any addenda will be posted there as well as necessary.

7.0 Initial Selection Criteria and Final Selection Process

The Cabarrus County Long Range Public Transportation Master Plan RFP Review Committee, comprised of Rider, CCTS, City of Concord, City of Kannapolis, Cabarrus County staff will receive competitive proposals from firms having specific experience and qualifications in the areas identified in this solicitation. Interested firms should send both a technical proposal and a sealed cost proposal. Firms must comply with all required Federal clauses and provisions in Exhibit A. The following criteria will be used in evaluating the qualifications for each proposal:

- Scope/Approach – How effectively does the proposal work plan respond to the goals, objectives, and requested items in the RFP? Does the proposed Work Plan demonstrate a clear understanding of the project and the local context? Is the approach appropriate and customized for the local context? Will the consultant be able to provide all the services described in the Scope of Work? Does the approach to the project demonstrate an excellent technical understanding of the transportation problems and provide progressive, innovative solutions? Does the approach demonstrate a commitment to objective, defensible decision-making? Does the proposal provide a clear indication of the degree of understanding of the project's context? What is the projected timeline for the project?
- Experience – Has the Proposer been involved in any other projects that have resulted in improved coordination between, or consolidated of, multiple public transit systems? Did that

project result in a higher level of service to citizens and/or increase efficiency of services? Are the Consultant's previous clients satisfied with the quality of the work product on similar projects?

- Professional Staff – Does the consultant staff assigned to the project have the necessary skills and experience to carry out the tasks? Is there a sufficient number of staff available to get the work finished in a timely manner? Who will be key staff dedicated to the project? Resumes included in the appendix will be used to determine experience and skill sets needed to successfully complete the project.
- DBE Utilization – While there is not a DBE goal for this project, Concord, Kannapolis and Cabarrus County encourage Disadvantaged Business Enterprises (DBE) and Small Businesses to bid on this project.
- Availability and Familiarity - with Cabarrus County and the Charlotte region. How much time has the consultant committed staff to be on the ground locally? How will consultant staff communicate with the Steering Committee and system members? Where will the project manager be located? How many other projects is the firm involved in currently that would prevent the project from being completed in a satisfactory and timely manner?
- Cost – the price shall be a cost plus fixed fee with a contract maximum, which includes all the requirements outlined within this RFP. The cost proposal must be in a sealed separate envelope marked "Cost Proposal."

The proposed work plan and specific experience and proposed personnel of a firm or team of firms will be the major determinant in the finalist(s) selection process. Nonetheless, cost is an underlying evaluation criteria and competitive pricing will be key as well. The Cities and County will conduct a **price or cost analysis** of the selected proposal. A price analysis will be used to determine the reasonableness of the proposed contract price unless adequate price competition is lacking in which case a cost analysis will be performed. The price or cost analysis will be conducted per the requirements in FTA Circular 4220.1F. Proposals will be reviewed and initially ranked according to the following criteria:

- Appropriateness, quality, innovation, completeness and clarity of the proposal and detailed Work Plan
- Experience/Qualifications of Proposer(s)
- Cost (based on percentage of cost in relation to the lowest bid)

Those submitting proposals may be required to have key project personnel participate in an interview as part of the final selection and award determination process. The interviews would be in person, in Cabarrus County, and the interview committee may include staff and community representatives from Concord, Kannapolis, and Cabarrus County. The Cities and County reserve the right to interview none, some, or all of the teams that submit proposals in response to this RFP. Additionally, the Cities and County reserves the right to reject any or all proposals, to waive any irregularities in proposals, request additional information and to negotiate scope and price with one or more proposers. The Cities and County retains the right to use any and/or all ideas presented in reply to this RFP. Eventual selection or rejection of proposals does not affect this right. The specifications herein do not commit the Cities and County or any other public agency to pay any costs incurred in the submission of proposals nor to procure or contract for any articles or services. The Cities and County may cancel this solicitation at any time.

Concord, Kannapolis and Cabarrus County will recommend award of a contract to the firm whose

proposal is deemed to be the most responsive and advantageous (Best Value) to the Cities and County, cost and other factors considered subject to negotiation and availability of sufficient funds. Best Value shall mean a competitive, negotiated procurement process in which the recipients reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price such that the recipients may acquire technical superiority even if it must pay a premium price. A "premium" is the difference between the price of the lowest priced proposal and the one that the recipient believes offers the best value. The term "best value" also means the expected outcome of an acquisition that, in the recipient's estimation, provides the greatest overall benefit in response to its material requirements. The Selection Committee will make a recommendation to the Concord Kannapolis Transit Commission and designated Cabarrus County representative at their March 2018 meeting. The selected Consultants may be contacted for additional information concerning the submittal and contractual information. Upon agreement of the terms, and concurrence of the relevant governing bodies, the contract will be taken to the Concord City Council for approval at their April 12th, 2018 meeting.

8.0 Project Schedule

Notice to Proceed for this project will be given as soon as a contract with the successful proposer has been executed and all state and federal requirements are met. The anticipated project schedule range is six to nine months and will be finalized by the selected Consultant and City and County staff.

<i>DATE</i>	<i>EVENT</i>
January 5 th , 2018	<i>Issuance of RFP.</i> The City and County issues this RFP.
January 22 nd , 2018	<i>Submission of Written Questions.</i> Interested parties may submit, via email, to the City & County, written questions for purposes of clarifying this RFP. All questions must be sent to L.J. Weslowski at weslowlj@concordnc.gov and must include the name of a contact person to receive the City's answers. Questions are due by 12:00 PM . Questions received after this deadline may be answered at the discretion of City and County staff. Questions will be answered at the Pre-Proposal Conference.
January 24 th , 2018	<i>Pre-Proposal Conference.</i> 1 PM, Rider Transit Center, 3600 S. Ridge Avenue, Concord NC 28025
February 9 th , 2018	<i>Proposal Submission.</i> Proposals are due by 5:00 PM on Friday, February 9 th , 2018, at the Rider Transit Center. All Proposals will be time-stamped upon receipt and held in a secure place until this date.
March 9 th – March 16 th	<i>Interviews & Presentations (if needed)</i>
April 12 th , 2018	<i>Anticipated City Council Award Date.</i>
May 1 st , 2018	<i>Plan Contract Begins</i>

As part of the RFP response, the responder is invited to submit a proposed project schedule, if appropriate, to include the frequency and number of meetings with the Steering Committee.

9.0 Proposal Submission

All responses shall be submitted in a sealed envelope. The outside of the package shall be marked "Request for Proposals #010518 – Cabarrus County Long Range Public Transportation Master Plan." Please mail one (1) signed original and an additional nine (9) hard copies, along with three (3) digital copies to:

L.J. Weslowski
Transit Manager
Rider Transit Center
3600 S. Ridge Avenue
Concord, NC 28025

Proposals must be received no later than **5:00 PM on Friday, February 9th, 2018**. Any Proposal received after the date and time specified above will be rejected, considered non-responsive, and will not be opened.

10.0 Signature Requirements

Proposals must be signed by a duly authorized official of the responder. Consortia, joint ventures, or teams submitting proposals, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one Contractor or one legal entity, which shall not be a subsidiary or affiliate with limited resources. Each proposal should indicate the entity responsible for execution on behalf of the proposal team. Proposers may be required to furnish evidence of financial stability and solvency satisfactory to the Cities & County. Handwritten proposals will not be accepted. Proposers are cautioned to verify their proposals before submission. Any amendment requests made after the submittal deadline will not be considered.

PROPOSERS ARE STRONGLY ADVISED TO READ AND ADHERE TO ALL SIGNATURE AND CONTRACTUAL REQUIREMENTS SPECIFICALLY OUTLINED WITHIN THIS REQUEST FOR PROPOSALS. FAILURE TO COMPLY WITH ALL REQUIREMENTS MAY RESULT IN THE PROPOSAL BEING REJECTED AS NON-RESPONSIVE.

11.0 Additional Information

The Cities and County retain the right to reject all proposals and to re-solicit if deemed to be in its best interests. Selection is also dependent on the execution of a mutually acceptable contract with the successful responder.

Each proposal shall state that it is valid for a period of not less than ninety (90) days from the date of receipt.

All plans, calculations, maps, digital files, reports, correspondence, minutes of meetings, and related data generated for this project will be included in the final documents submitted to the Cities and County.

As a reminder, consultant staff will be required to attend and assist with a presentation summarizing the final work product to the three local governing bodies.

Final payment will not be made to the Consultant until the initiative is completed to the satisfaction of City and County staff.

The type of contract is a cost plus fixed fee with a contract maximum with all costs subject to pre-award and final audits.

Federal funds received by Concord and Cabarrus County will be used as a component of the overall funding of this project. Accordingly, the selected Consultant will be required to comply with all applicable Federal regulations and contracting provisions required by the federal funding authority, including 49 CFR Part 31 – Allowable Costs, Civil Rights, Minority Business Enterprise, and other applicable assurance provisions. The contractor, sub-recipient, or subcontractor 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 DOT-assisted contracts. 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 recipient deems appropriate, which may include, but is not limited to:

- Withholding monthly progress payments;
- Assessing sanctions;
- Liquidated damages; and/or
- Disqualifying the contractor from future bidding as non-responsible

Consultants and sub-consultants shall comply with FHWA Order 4470.1A "Certification of Indirect Costs" in Accordance with FAR. Additionally, the contract must comply with state and local requirements applicable to such contracts.

REQUEST FOR PROPOSALS ACKNOWLEDGEMENT FORM

The Firm/Agency hereby certifies receipt of the Request for Proposals package for the City of Concord, North Carolina, "Cabarrus County Long Range Public Transportation Master Plan." This form should be completed upon receipt and review of the City's Request for Proposals package and emailed to the City prior to proposal submission. Please email the completed Request for Proposals Acknowledgement Form to the attention of:

L.J. Weslowski
Rider Transit Center
3600 South Ridge Avenue
Concord, NC 28025
Email: weslowlj@concordnc.gov
Fax: 704.920.6900.

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Please check the appropriate space provided below and provide the requested information:

We plan to submit a Proposal in response to "Cabarrus County Long Range Public Transportation Master Plan".

Primary Contact Name: _____

Contact E-mail address: _____

Contact phone: _____ Fax number: _____

Secondary Contact Name: _____

Contact E-mail address: _____

Contact phone: _____ Fax number: _____

We do not plan to submit a Proposal in response to "Cabarrus County Long Range Public Transportation Master Plan ".

Reason: _____

ADDENDA RECEIPT CONFIRMATION FORM

Cabarrus County Long Range Public Transportation Master Plan RFP

ADDENDUM #:

DATE:

I certify that this proposal complies with the General and Specific Specifications and Conditions issued by the City except as clearly marked in the attached copy of all addenda for this RFP. It is the responsibility of the Firm/Agency to be sure they have reviewed all the addenda associated with this RFP.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

PROPOSAL SUBMISSION FORM

Cabarrus County Long Range Public Transportation Master Plan RFP

This Proposal is submitted by:

Firm/Agency : _____

Signed: _____

Name: (Typed) _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Telephone Number

It is understood by the Firm/Agency that the City reserves the right to reject any and all proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and rebid this RFP. Proposals will be considered valid for ninety (90) calendar days from the date of Proposal submission.

Service Provider

Date

Name (Please type or print name)

Authorized Signature

Exhibit A

**REQUIRED FEDERAL THRID PARTY CONTRACT
PROVISIONS FOR FTA FUNDED CONTRACTS**

**City of Concord/Concord Kannapolis Area Transit (Rider)
FEDERAL THIRD PARTY CONTRACT PROVISIONS**

Professional Services Over \$150,000

1. General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Compliance with and citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement FTA MA (17), dated October 1, 2016; FTA Circular 4220.1F, dated November, 2008, updated March 18th, 2013; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through October 2005; 49 CFR Part 18 (State and Local Governments) and 49 CFR Part 19 (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.

3. 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.

4. 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 business, employee or applicant from participation,

program benefits, business opportunities or employment because of race, color, creed, national origin, sex, age, or disability. 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 4701.1A, "Title VI and Title VI Dependent Guidelines for Federal Transit Administration recipients", May 13, 2007.

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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 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, creed, 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.

(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 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) **Environmental Justice**. 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; and DOT Order 5620.3, "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.

(8) **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.

(9) **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.

(10) 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.

5. **Contracting with Disadvantaged Business Enterprises**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs* and with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101.

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**.

6. **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.

7. **Recycled Products**

The Recycled Products requirement applies to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000. These requirements flow down to all contractor and subcontractor tiers.

To the extent possible the contractor agrees to comply with U. S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 CFR Part 247, which implements section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6962. The contractor agrees to provide competitive preference for products and services that conserve natural resources, protect the environment and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

8. **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 "Excluded Parties Listing System" at <http://epls.gov/> before entering into any subagreement, lease or third party contract.

The Procuring Agency will be reviewing all third party contractors under the Excluded Parties Listing System at <http://epls.gov/> before entering into any contracts.

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.

9. Termination or Cancellation of Contract

The Contractor agrees:

- (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable Federal laws and regulations now in effect or later that affect its third party procurements,
- (2) To comply with U.S. DOT third party procurement regulations, specifically 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 – 19.48, and other applicable Federal regulations that affect its third party procurements as may be later amended,
- (3) To follow the most recent edition and any revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," except as FTA determines otherwise in writing, and
- (4) That although the FTA "Best Practices Procurement Manual" provides additional third party contracting guidance, the Manual may lack the necessary information for compliance.

Termination for Convenience: The City of Concord, 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.

Termination for Default [Breach or Cause]: The City of Concord may terminate this contract in whole or in part, for the City's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City 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 City all equipment (property of City), data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

Opportunity to Cure: The City 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 Contractor fails to remedy to the City'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 (Recipient) setting forth the nature of said breach or default, the City 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 City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

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 City.

10. 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.

11. 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.

12. Access to Records and Reports

The following access to records requirements apply to this Contract:

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. 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.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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 Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) 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. Reference 49 C.F.R. 18.39 (i)(11).

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.

13. 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, updated February 2011 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 City of Concord requests which would cause City of Concord to be in violation of the FTA terms and conditions.

14. **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.

15. **Cargo Preference**

46 U.S.C. 55305 and 46 CFR Part 381 impose cargo preference requirements in contracts and subcontracts in which equipment, materials or commodities may be transported by ocean vessel in carrying out the project. If the Contractor has knowledge of or anticipates any equipment, materials or commodities that may be shipped by ocean vessel, the Contractor is obligated to inform the Owner, so that additional requirements and clauses may be attached to this Contract.

16. **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 as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, 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*)

17. **Patent and Rights in Data**

A. Rights in Data - This 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) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(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 (c) , 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) 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.

18. Clean Air Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.) 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.

19. Clean Water

(a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, 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.

20. 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 o 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.

ATTACHMENT A

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 subrecipients 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 B

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY and VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(To be submitted with all bids or offers 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.

SIGNATURE _____

TITLE _____

COMPANY _____

DATE _____

State of _____

County of _____

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

Notary Public _____

My Appointment Expires _____