

Request for Proposals  
540-20160617A

Development of 3-Year DBE Goal  
Goldsboro-Wayne Transportation  
Authority

5/27/2016

# **Request for Proposals**

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## I. INSTRUCTIONS TO BIDDERS

**GENERAL:** All bids are subject to the provisions of the attached General Contract Terms and Conditions. All bid responses will be controlled by the Terms and Conditions included by the Goldsboro-Wayne Transportation Authority (GWTA). Bidder terms and conditions included as a part of published price lists, catalogs, and/or other documents submitted as a part of the bid response are waived and will have no effect either on the bid, or any contract which may be awarded as a result of this bid. **The attachment of any other terms and conditions may be grounds for rejection.**

Bidder specifically agrees to the conditions set forth in this paragraph by signature of the "BID" contained herein.

Pursuant to G.S. 143-48 and Executive Order No. 77, the State invites and encourages participation in this procurement by a business owned by minorities, women, and the handicapped.

**WARRANTY:** Bidder guarantees equipment offered by him to be free from any and all defects in material and workmanship and warrants same for a period of one (1) year unless otherwise stated in the specifications. Such warranty to cover the cost of all service, parts, labor, and travel to and from points of service.

**SPECIFICATIONS:** Manufacturer's name and catalog numbers used in this bid are product specific unless the description states equivalent acceptable. These products are required for compatibility and continuity of support.

**BID EVALUATION:** The GWTA reserves the right to reject any bid on the basis of the function, compatibility with user requirements, as well as cost. The GWTA reserves the right to award this contract to a single overall bidder on all items, or to make award on the basis of individual items or groups of items, whichever shall be considered by the GWTA to be most advantageous or to constitute its best interest. Bidders should show unit prices, but are requested to offer a lump sum price. The GWTA will not be bound by oral discussions during evaluation process. Responsible purchasing agent should approve all contact regarding this award.

**CANCELLATION:** The GWTA may terminate/cancel this contract at any time by providing written notice to the bidder at least thirty (30) days before the effective date of termination/cancellation.

**SERVICE:** Adequate and satisfactory availability of repair parts and supplies, and ability to meet warranty and service requirements are necessary. The GWTA reserves the right to satisfy itself by inquiry or otherwise as to bidder's capability in this regard.

**SAFETY:** See attached General Terms & Conditions #11.

**BID RESULTS:** For bid results call (336) 883-3219 or e-mail [fred.fontana@waynegov.com](mailto:fred.fontana@waynegov.com)

**QUESTIONS:** Questions regarding the specifications on this bid should be referred to the purchasing manager or buyer.

**SPECIAL INTEREST GROUP DEFINITIONS:**

Women Owned (51% and controlled by Women)

Handicapped Owned (51% owned & controlled by a Physically Handicapped Person)

Minority Owned (At least 51% of which is owned and controlled by minority group member (Black, Asian, Hispanic, or American Indian).

## II. GENERAL TERMS AND CONDITIONS

1. **ACCEPTANCE AND REJECTION**: The GWTA reserves the right to reject any and all bids, to waive any informality in bids, and unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error or the other is obviously correct, the incorrect price will be disregarded.
2. **TIME FOR CONSIDERATION**: Unless otherwise indicated on the first page of this document, the offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
3. **TAXES**: No taxes shall be included in any bid prices.
  - a. **FEDERAL**: Generally, states and political subdivisions are exempt from such taxes, as excise and transportation. Exemption is claimed under Registry No. 56-70-0047K as provided by Chapter 32 of the Internal Revenue Code.
  - b. **OTHER**: Bid prices are not to include any sales, import, or personal property taxes. To the extent applicable, they are to be invoiced as a separate item(s).
4. **PRICE ADJUSTMENTS**: Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the bidder to other customers.
  - a. **NOTIFICATION**: Must be given to the GWTA Purchasing Division, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturers' official notice or other evidence that the change is general in nature.
  - b. **DECREASES**: The GWTA shall receive full proportionate benefit immediately at any time during the contract period.
  - c. **INCREASES**: All prices offered herein shall be firm against any increase for 180 days from effective date of the proposed contract. After this period, a request for increase may be submitted with the GWTA reserving the right to accept or reject the increase, or cancel the contract. Such action by the GWTA shall occur not later than 15 days after receipt and review by the GWTA of a properly documented request for price increase. Any increases accepted shall become effective on a date to be determined by the GWTA which:
    - 1) Shall not be later than 30 days after the expiration of the original 15 days reserved by the GWTA to evaluate the request for increase;
  - d. **INVOICES**: It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.
5. **PAYMENT TERMS**: Payment terms are Net, 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The GWTA is responsible for all payments under the contract.

6. **AFFIRMATIVE ACTION:** The successful bidder will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without discrimination by reason of race, color, religion, sex, national origin, or physical handicap.

7. **CONDITION AND PACKAGING:** Unless otherwise indicated in the bid, it is understood and agreed that any item offered or shipped on this bid shall be new and in first class condition, that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging.

8. **PERFORMANCE BOND AND DEFAULT:** The GWTA reserves the right to require performance bonds from successful bidder, as provided by law, without expense to the GWTA. Otherwise, in case of default by the Bidder, the GWTA may procure the articles or services from other sources and hold the Bidder responsible for any excess cost occasioned thereby. Default shall occur if the Bidder fails to perform any obligation under the contract and schedule and such failure remains uncured for more than thirty (30) days after receipt of written notice thereof from the GWTA.

9. **SAMPLES:** Samples of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request, be returned at the bidder's expense. Request for the return of samples must be made within 10 days following opening of bids. Otherwise the samples will become GWTA property. Each individual sample must be labeled with bidder's name and item number. Samples, on which an award is made, will be retained for the contract period. These will be returned, if requested, ten days prior to expiration of the contract.

10. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and successful bidder will be held responsible therefore. Deviations must be explained in detail on an attached sheet(s).

**The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

11. **SAFETY STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization, such as the American Society of Mechanical Electrical Engineers for pressure vessels; the Underwriters' Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type(s) of devices offered and furnished. Further, all items furnished by the successful bidder shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

All bidders must comply with *North Carolina Occupational Safety and Health Standards for General Industry, 29CFR 1910*. Construction bidders must comply with *North Carolina Occupational Safety and Health Standards for the Construction Industry, 29CFR 1926*. In addition, bidders shall comply with all applicable occupational health and safety and environmental rules and regulations. Bidders shall effectively manage their safety and health responsibilities including:

**1. Accident Prevention**

Prevent injuries and illnesses to their employees and others on or near their job site. Bidder managers and supervisors shall ensure employer's personnel safety by strict adherence to established safety rules and procedures.

**2. Environmental Protection**

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

**3. Employee Education and Training**

Provide education and training to all bidders employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

**12. INFORMATION AND DESCRIPTIVE LITERATURE:** Bidders are to furnish all information requested and in the spaces provided on the bid form. Further, as may be specified elsewhere, each bidder must submit with his proposal: cuts, sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid does not satisfy this provision. Bids, which do not comply with these requirements, will be subject to rejection.

**13. PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.

**14. AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance made of the lowest and best bid most advantageous to the GWTA as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the GWTA to be pertinent or peculiar to the purchase in question. Unless otherwise specified by the City or the bidder, the GWTA reserves the right to accept any items or groups of items on a multi-item bid.

The GWTA reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the GWTA to be pertinent or peculiar to the purchase in question.

**15. GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful bidder to notify the GWTA Purchasing Division at once, indicating in his letter the specific regulation which required such alterations. The GWTA reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

**16. M/WBE:** Pursuant to General Statute 143-48 and Executive Order #77, the GWTA invites and encourages participation in this procurement process by businesses owned by minorities, women, and the handicapped.

17. **INSURANCE:**

**COVERAGE** - During the term of the contract, the bidder at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the bidder shall provide and maintain the following coverage and limits:

**a. Worker's Compensation** - The bidder shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all bidder's employees who are engaged in any work under the contract. If any work is sublet, the bidder shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.

**b. Commercial General Liability** - General Liability Coverage, on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

**c. Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under-insured motorist; and \$1,000.00 medical payment.

**REQUIREMENTS:** Providing and maintaining adequate insurance coverage is a material obligation of the bidder and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The bidder shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any of such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the bidder shall not be interpreted as limiting the bidder's Liability and obligations under the contract. It is agreed that the coverage as stated shall not be canceled or changed until thirty (30) days after written notice of such termination or alteration has been sent by registered mail to the GWTA Purchasing Division.

18. **PATENTS AND COPYRIGHTS:** The Bidder shall hold and save the GWTA, its officers, agents, and employees, harmless from liability of any kind, including costs and expenses on account of any patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.

Any and all copy, art, designs, negatives, photographs, or other tangible items created pursuant to bidder's performance of this project shall be the property of GWTA and shall be delivered to City upon completion of the project. Such property shall be transferred to City in excellent, reusable condition.

In addition, the copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the bidder's performance of this project shall vest in the GWTA, and the bidder agrees to assign all rights therein to the GWTA. Bidder further agrees to provide the City with any and all reasonable assistance, which the City may require to obtain copyright registrations or to perfect its title in any such work, including the execution of any documents submitted by the GWTA.



19. **PATENT AND COPYRIGHT INDEMNITY**: BIDDER will defend or settle, at its own expense, any action brought against Customer to the extent that it is based on a claim that the product(s) provided pursuant to this agreement infringe any U.S. copyright or patent; and will pay those costs, damages and attorney's fees finally awarded against Customers in any such action attributable to any such claim, but such defense, settlements and payments are conditioned on the following (1) that BIDDER shall be notified promptly in writing by Customer of any such claim; (2) that BIDDER shall have sole control of the defense of any action on such claim and of all negotiations for its settlement or compromise; (3) that Customer shall cooperate with BIDDER in a reasonable way to facilitate the settlement of defense of such claim; (4) that such claim does not arise from Customer modifications not authorized by the BIDDER or from the use of combination of products provided by the BIDDER with products provided by the Customer or by others; and (5) should such product(s) become, or in the BIDDER's opinion likely to become, the subject of such claim of infringement, then Customer shall permit BIDDER, at BIDDER's option and expense, either to procure for Customer the right to continue using the product(s), or replace or modify the same so that it becomes non-infringing and performs in a substantially similar manner to the original product; or (c) upon failure of (a) or (b) despite the reasonable efforts of the BIDDER for a sold product or licensed software, return the price paid for the licensed software and any product dependent thereon.

20. **ADVERTISING**: Bidder agrees not to use the existence of this contract or the name of the GWTA as a part of any commercial advertising without prior approval of the GWTA Purchasing Division.

21. **EXCEPTIONS**: All proposals are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions and the submission of other terms and conditions, price catalogs, and other documents as part of a Bidder's response will be waived and have no effect on this Request for Proposal or any other contract that may be awarded resulting from this solicitation. The submission of any other terms and conditions by a Bidder may be grounds for rejection of the Bidder's proposal. The Bidder specifically agrees to the conditions set forth in the above paragraph by affixing his name on the signatory page contained herein.

22. **CONFIDENTIAL INFORMATION**: As provided by statute and rule, the GWTA will consider keeping trade secrets which the bidder does not wish DISCLOSED confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

23. **ASSIGNMENT**: No assignment of the bidder's obligations nor the bidder's right to receive payment hereunder shall be permitted. However, upon written request approved by the GWTA Purchasing Division, solely as a convenience to the bidder, the GWTA may:

- a. Forward the bidder's payment check directly to any person or entity designated by the bidder, and
- b. Include any person or entity designated by bidder as a joint payee on the bidder's payment check.

In no event shall such approval and action obligate the GWTA to anyone other than the bidder and the bidder shall remain responsible for fulfillment of all contract obligations.

24. **ACCESS TO PERSONS AND RECORDS**: The GWTA and the City of Goldsboro Auditor shall have access to persons and records as a result of all contracts or grants entered into by the GWTA and the City of Goldsboro in accordance with General Statute 147-64.7.

25. **INSPECTION AT BIDDER'S SITE:** The GWTA reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective bidder prior to contract award, and during the contract term as necessary for the GWTA's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
26. **AVAILABILITY OF FUNDS:** Any and all payments of compensation of this specific transaction, its continuing or any renewal or extension are dependent upon and subject to the allocation of appropriation of funds to the GWTA for the purpose set forth in this agreement.
27. **GOVERNING LAWS:** All contracts, transactions, agreements, etc., are made under and shall be governed by and construed in accordance with the laws of the State of North Carolina.
28. **ADMINISTRATIVE CODE:** Bids, proposals, and awards are subject to applicable provisions of the North Carolina Administrative Code.
29. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.
30. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) GWTA General Contract Terms and Conditions, and (4) GWTA Bid Terms and Conditions.
31. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the City named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the GWTA Purchasing Division. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source is of no effect.
32. **SITUS:** The place of all contracts, transactions, agreements, their situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.
33. **E-VERIFY REQUIREMENTS APPLY TO PUBLIC CONTRACTS:** On September 4, 2013, the North Carolina legislature passed a new law that focuses on E-Verify requirements on contractors who enter into contracts with state agencies and local governments. Under North Carolina law, the E-Verify requirement applies to private employers doing business in this state that has 25 or more employees working in this state. If contractors are individuals who are self-employed (i.e., one employee), or with a business with less than 25 employees, that individual/business is not subject to the E-Verify requirements.

The new state E-Verify requirements will require the GWTA to change procedures that relate to the bid process and contract documents. To ensure that we are meeting these requirements, all bid documents for informal and formal bids will be changed. We have prepared the attached affidavit which will be included in the bid documents. Since it is the GWTA's responsibility to comply with E-Verify, the successful bidder will be required to submit the completed E-Verify affidavit after bid award.

The link below clarifies the new state E-Verify requirements. We hope it will be helpful as we transition to meet the requirements.

[E-Verify Requirements Apply to Public Contracts – NOW!](#)

### III. FEDERAL REQUIREMENTS AND SPECIAL CONDITIONS

#### 1. General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Act, as amended. References include, but are not limited to, the Master Agreement FTA MA(21), dated October 1, 2014; FTA Circular 4220.1E, dated June 19, 2003; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through February, 2001; 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.

**NOTE: "BIDDER" AND "CONTRACTOR" ARE USED SYNONYMOUSLY**

#### 2. Federal Changes

The Contractor understands that Federal laws, regulations, policies, and related administrative practices applicable to this contract may be modified, amended or promulgated from time to time during the term of this contract. The Contractor agrees and shall comply with the most recent of such Federal requirements that will govern this contract at any particular time, unless the Federal Government determines otherwise. Likewise, new Federal laws, regulations, policies, and administrative practices may be established after the contract is executed and may apply to this contract. The Contractor's failure to so comply shall constitute a material breach of this contract. The following identifies, but is not limited to, the federal requirements that shall apply to this contract.

#### 3. Conflict of Interest

No employee, officer, board member, or agent of the grantee (the State or subrecipient) 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. Contracting with Disadvantaged Business Enterprises

The Federal Fiscal Year goal has been set for the grantee of subgrantee in an attempt to match projected procurements with available qualified disadvantaged businesses. The goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established as set forth by the Department of Transportation Regulations 49 C.F.R. Part 26, January 29, 1999, and authorized by:

- a. Titles I, III, V and VI of ISTEA, Pub. L. 102-240, or
- b. Federal transit laws in Title 49, U.S. Code, or
- c. Federal transit laws in Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, amended by Section 106(c) of the Surface

Transportation Assistance Act of 1987, and is considered pertinent to any contract resulting from this request for proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the Special Specifications, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE's in the work provided, (name of grantee) may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the Special Specifications, it will be understood that no specific goal is assigned to this contract.

- a) Policy - It is the policy of the Department of Transportation and (name of grantee) that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of Contract financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Contract. The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts. The grantee or subgrantee shall promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of procurement activities are encouraged.
- b) DBE obligation - The Contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 as amended, to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.
- c) Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, the grantee or subgrantee may declare the contractor noncompliant and in breach of contract.
- d) The Contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with grantee or subgrantee DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of grantee or subgrantee and will be submitted to grantee or subgrantee upon request.
- e) The grantee or subgrantee will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBE
- Available listing of Minority Assistance Agencies
- Holding bid conferences to emphasize requirements

5. Civil Rights

Contractors and subcontractors shall assure and comply with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sect. 2000d; 49 U.S.C. Sect. 5332; and DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act", 49 C.F.R. part 21, and any implementing requirements FTA may issue.

6. Equal Employment Opportunity

The contractor or any sub-contractor may not discriminate against any employee or applicant for employment, because of race, color, age, creed, sex, or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. 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.

7. Access Requirements of Individuals with Disabilities

Contractors shall agree to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. Subsection 12101 *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. Section 794; 49 U.S.C. Section 5301(d); and the following Federal regulations including any amendments thereto:

- (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. 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) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609;
- (10) Architectural and Transportation Barriers Compliance Board regulations, “Electronic and Information Technology Accessibility Standards.” 36 C.F.R. Part 1194; and
- (11) Any implementing requirement FTA may issue.

8. Access Services for Persons with Limited English Proficiency

The Contractor agrees to comply with guidance set forth in Executive Order No. 131166, “Improving Access to Services for persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. 2000d-1 note, and with the requirements and provisions of U.S. DOT notice, “ DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries,” 66 Fed. Reg. 66733 et seq., January 22, 2001.

9. Environmental Protection

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended 42 U.S.C. subsection 4321 et seq. in accordance with Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 59 Fed. Reg. 7629, Feb. 16, 1994, FTA statutory requirements on environmental matters at 49 U.S.C. section 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq. and joint FHWA FTA regulations, “environmental Impact and Related procedures,” 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and when promulgated, FHWA/FTA joint regulations, "NEPA and Related Procedures for Transportation Decisionmaking, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420 and 49 C.F.R. Part 623.

10. 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.

11. Reporting, Record Retention, and Access

The following access to records requirements apply to this Contract:

- 1. In accordance with 49 C. F. R. 18.36(i)(10), the Contractor agrees to provide the Purchaser, the N.C. Department of Transportation, 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.

2. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R.19.48(d), the Contractor agrees to provide the Purchaser, the N.C. Department of Transportation, the FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

3. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

4. 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.

5. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the 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 CFR 18.36(i)(11).

## 12. 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.

## 13. 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 actions pertaining to this Project. Upon execution of the



underlying contract, 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 be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Section 5307, the Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the Contractor, 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.

#### 14. Debarment and Suspensions

Executive Order 12549, as implemented by 49 CFR Part 29 prohibits FTA recipients and sub-recipients from contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts.

Contractors are required to pass this requirement on to subcontractors seeking subcontracts over \$100,000. Thus, the terms "lower tier covered participant" and "lower tier covered transaction" include both contractors and subcontractors and contracts and subcontracts over \$100,000.

##### **Instructions for Certification:**

- (1) **By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the GWTA may pursue available remedies, including suspension and/or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the GWTA if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49

CFR Part 29]. You may contact the GWTA for assistance in obtaining a copy of those regulations.

- (5) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the GWTA.
- (6) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
- (8) Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Recipient) may pursue available remedies including suspension and/or debarment.

**“Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction”**

- (1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. §29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

15. **Termination or Cancellation of Contract**

Termination or cancellation of the contract, in whole or in part, may be determined by the project if it is in the best interest of the project. A notice of termination shall be delivered to the Contractor, specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. The Contractor shall be paid for work that has been

performed and completed up to the time of termination. The Contractor shall promptly submit its termination claim to be paid. A 30-day notice of termination shall be required.

#### 16. Breach of Contract

If the Contractor fails to make delivery of the equipment, supplies, or services within the specified terms of the contract, or fails to perform within the provisions of the contract, the contract may be terminated by reason of default or breach. A written notice of default or breach of contract shall be presented to the Contractor within three (3) working days of such failure. The Contractor will only be paid the contract price for equipment delivered and accepted in accordance with the requirements set forth in the contract.

If it is determined 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 project, 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 project in its sole discretion may, in the case of breach of contract, allow the Contractor a specified period of time in which to correct the defect. In such case, the notice of termination will state the time period in which the correction is permitted and other appropriate conditions.

If Contractor fails to remedy to the project's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within twenty (20) days after written notice from the project setting forth the nature of said breach or default, the project 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 the project from also pursuing all available remedies against Contractor and its sureties for said breach or default.

#### 17. Protest Procedures

All protests shall be filed, handled, and resolved in a manner consistent with the requirements of Federal Transit Administration (FTA) Circular 4220.1E Third Party Contracting Guidelines dated June 19, 2003 and the GWTA's Protest Procedures below.

Current FTA policy states that: "Reviews of protests by FTA will be limited to a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation. Violations of federal law or regulations will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local officials." (FTA Circular 4220.1E, Section 7, paragraph 1., Written Protest Procedures)

Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed 15 days prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. To be filed on a given day, protests must be received by 4:30 p.m. current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is

complete. Unless the time limit for receiving the protest is extended for good cause, a protest that is received after the time limit will not be considered.

All protests should be filed in writing with the City Manager, GWTA, P.O. Box 230 (211 S. Hamilton St.), GWTA, NC 27261. No other location shall be acceptable. To be complete, protests must contain the following information:

1. The protester's name, address, telephone number, and fax number;
2. The solicitation/bid number;
3. A detailed statement of all factual and legal grounds for protests and an explanation of how the protester was prejudiced;
4. Copies of relevant documents supporting protester's statement;
5. A request for ruling by the GWTA;
6. Statement as to form of relief requested;
7. All information establishing that the protester is an interested party for the purpose of filing a protest; and
8. All information establishing the timeliness of the protest.

All protests must be signed by an authorized representative of the protester.

When a protest is filed before an award, an award shall not be made until the matter is resolved unless based on written finding that 1) the supplies or services are urgently required, or 2) delivery or performance would be unduly delayed by failure to make the award promptly, or 3) a prompt award would be in the best interest of the City. Should the City postpone the date of bid submission owing to a protest or appeal of the solicitation specifications, addenda, dates, or any other issue relating to the procurement, the City shall notify, via addendum, all parties who are on record as having obtained a copy of the solicitation documents that an appeal/protest has been filed, and the due date for the bid submission shall be postponed until the City has issued its final decision.

When a protest is filed within ten (10) days after an award or five (5) days after a debriefing date was offered to the protester under a timely debriefing request, whichever is later, performance shall be immediately suspended pending resolution of the protest. However, contract performance may continue, notwithstanding the protest, based on written finding that 1) contract performance would be in the best interest of the City, or 2) urgent and compelling circumstances that significantly affect the interests of the City will not permit waiting for a decision.

The City Manager shall make a decision on the protest within ten (10) working days from the receipt of the protest. The written decision will respond to the issues raised by the protester and will address any other issues, which even if not raised by the protester, that may have been identified as being relevant to the fairness of the procurement process. The decision will be delivered to the protester by "Certified Mail, Return Receipt Requested." In extreme cases, it may take longer than ten (10) working days to issue a decision. In these cases, the protester and all other interested parties will be notified of the delay. Any decision rendered by the City Manager may be appealed to the City Council. The protester has the right within five (5) working days of receipt of determination to file an appeal restating the basis of the protest and the grounds of the appeal. In the appeal, the protester shall only be permitted to raise factual information previously provided in the protest or discovered subsequent to the City Manager's decision and directly related to the grounds of the protest. The City Council's decision shall constitute the final administrative remedy of the GWTA.

If the City Manager or City Council find for the protester, one or more of the following remedies may be granted:

1. Terminate the contract.
2. Re-compete the requirement.
3. Issue a new solicitation.
4. Refrain from exercising options under the contract.
5. Award a contract consistent with statutes and regulations.
6. Amend the solicitation provisions that gave rise to the protest and continue with the procurement.
7. Such other remedies as the decision-maker may determine are necessary to correct a defect.

The bidder may withdraw its protest or appeal at any time before the City issues a final decision.

A protester must exhaust all administrative remedies with the City before pursuing a protest with the Federal Transit Administration (FTA). However, if the protester believes that the GWTA failed to review the complaint or protest or failed to follow its own protest procedures, the protester may file an appeal to the FTA office below:

Regional Administrator  
Federal Transit Administration, Region IV  
61 Forsyth Street, SW  
Suite 17T50  
Atlanta, GA 30303-8917

The protester must file with the FTA no later than five (5) days after the City Council's final decision is rendered, with a concurrent copy of the appeal to the GWTA. The submission to the FTA should include the name and address of the protester, a statement of the grounds for protest and any supporting documentation, a copy of the local protest filed with the GWTA, and a copy of the GWTA's decision.

The GWTA will submit to the FTA any required information requested in order for the FTA to make a determination, including a copy of these protest procedures, a description of the process followed concerning the protest in question, and any supporting documentation. The GWTA will provide to the protester any material submitted to the FTA.

#### 18. 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.

19. Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Solicitor/Purchaser of this Purchase Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any negligent or willful acts or omissions by the Contractor, or the officers, agents, employees, or subcontractors of the Contractor, or the failure to perform or comply with any of the provisions of the Purchase Contract.

20. Seat Belt Usage

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt on the job seat belt use policies and programs for its employees when operating company owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts entered into under this project.

21. 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.IE, as amended, June 19, 2003, is 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 of the grantee or subgrantee requests which would cause grantee or subgrantee to be in violation of the FTA terms and conditions.

22. Texting While Driving and Distracted 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 that to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in each third party subcontract involving the project.

23. 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 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(r) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.

ATTACHMENT A

CERTIFICATION REGARDING LOBBYING

(To be submitted with each bid or offer exceeding \$100,000)

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 \_\_\_\_\_

**MUST BE SUBMITTED WITH BID OR PROPOSAL**

Solicitation Number (if applicable): \_\_\_\_\_

Name of Vendor or Bidder: \_\_\_\_\_  
\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IRAN DIVESTMENT ACT CERTIFICATION

In accordance to N.C.G.S. 147-86.59, any contractor attempting to contract with the State of North Carolina, North Carolina local governments, or any other political subdivision of the State of North Carolina shall certify at the time of the bid or renewal that the assignee or contractor is not identified on a list created by the State Treasurer pursuant to N.C.G.S. 147-86.58.

The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.*\* requires that each contractor, prior to contracting with the State certifies, and the undersigned on behalf of the contractor does hereby certify, to the following:

1. that the Contractor is not identified on the Final Divestment List of entities that the NC State Treasurer has determined engages in investment activities in Iran.
2. that the Contractor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the contractor to make this certification.

The agency shall include the certification in the procurement record.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days. For questions about the Department of State Treasurer's Iran Divestment Policy, please contact Meryl Murtagh at [Meryl.Murtagh@nctreasurer.com](mailto:Meryl.Murtagh@nctreasurer.com) or (919) 814-3852.

\* Note: Enacted by Session Law 2015-118 as G.S.143C-55 *et seq.*, but has been renumbered for codification at the direction of the Revisor of Statutes.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public \_\_\_\_\_



My Appointment Expires \_\_\_\_\_

**DIVESTMENT ACT CERTIFICATION REQUIRED BY  
N.C.G.S. 143C-6A-5(a)**

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As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

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Signature

Date

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Printed Name

Title

*Notes to persons signing this form:*

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/lran](http://www.nctreasurer.com/lran) and will be updated every 180 days.

STATE OF NORTH CAROLINA

AFFIDAVIT

WAYNE COUNTY

\*\*\*\*\*

I, \_\_\_\_\_ (the individual attesting below), being duly authorized by and on behalf of \_\_\_\_\_ (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department 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 in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (mark Yes or No)
  - a. YES \_\_\_\_\_, or
  - b. NO \_\_\_\_\_
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Signature of Affiant

Print or Type Name: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me, this the \_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission Expires:

\_\_\_\_\_  
Notary Public

(Affix Official/Notarial Seal)

## IV. REQUEST FOR PROPOSALS

### A. Introduction

The GWTA, on behalf of the GWTA Transit System, is requesting proposals from firms for the development of the FY17 through FY19 Disadvantaged Business Enterprise (DBE) Program goal. The purpose of this RFP is to provide GWTA Transit System with the services of a qualified firm to develop a goal based on the regulations in CFR Part 26, as amended. The tasks to be undertaken and provided are described as follows:

Development of the new Three-Year DBE Goal (Part 26), includes Fiscal Years 2017-2019 for the GWTA Transit System

- FY 2017-2019 FTA DBE Goal
- FY 2017-2019 FTA DBE Goal Follow-up and FTA Coordination

The Consultant is asked to provide the services described below as appropriate and based on guidance from the USDOT and FTA. The format will be consistent with the rules and guidelines but subject to any changes in USDOT/FTA regulations.

### B. Scope of Work

#### **Task 1: Three-Year DBE Goal (Part 26)**

- Includes Fiscal Years 2017, 2018, and 2019
- Consistent with the DBE Final Rule of 2010, the Consultant proposes to prepare the newly-required Three-Year Disadvantaged Business Enterprise (DBE) overall goal and methodology, for FTA-assisted projects at the transit system. This three-year goal (fiscal years 2017, 2018, and 2019), will meet all of the requirements of 49 CFR Part 26 and recently adopted amendments.

#### **Goal Setting Process**

The 3-Year Goal is to be developed based on the two-step process of:

1. Developing a DBE Base Figure for the relative availability of ready, willing and able DBEs, using an FTA-acceptable methodology for the agreed upon market area, or Project Service Area.
  - This process includes consultation with the designated staff, or Engineer in considering realistic subcontracting possibilities for each project for goal development, considering opportunities in both construction and in professional services and,
2. Making appropriate adjustments to the Base figure, using methods acceptable to FTA and consistent with the regulation.
3. The Consultant shall also provide assistance in fulfilling public participation requirements of the regulation, i.e. consultation with representative minority and/or women contractor organizations, and publication of a notice announcing the proposed overall goal methodology and its availability for the 45-day public comment period.

### Narrative Document & Follow-Up

The Consultant will develop the appropriate narrative text documenting the updated DBE methodology, to be typed and submitted to the transit system staff. The Consultant will forward the report to the FTA Civil Rights office after review and input by the designated staff. The DBE methodology shall conform to the requirements of 49 CFR Part 26. The Consultant will coordinate with the FTA concerning review and approval of the methodology, including follow-up.

### Information:

The Transit System will provide the following information, services, and/or data to the Consultant:

1. Available historic information on bidders and DBEs for the Project Service Area to help determine the Transit System's market area. This information may be provided using bid tabulation sheets from previous years or other available documentation.
2. Description of the FY 2017–FY 2019 proposed projects and preliminary planning/engineering cost estimates of the major work elements.
3. Review of proposed DBE overall goal and methodology prior to submittal to the FTA.

## **V. PROPOSAL FORMAT & REQUIREMENTS**

### **Submittal Requirements:**

Contractors that submit proposals in response to this request for proposals must have the capability of providing the services listed. The GWTA assumes no obligation of any kind for expenses incurred by any respondent to this solicitation. All submittals become the property of the GWTA and will not be returned. The submittal shall meet the following requirements or will be deemed non-responsive and will not be eligible for consideration of this project:

- Proposals shall be signed by an officer authorized to bind the proposer and shall contain a statement to the effect that the proposal constitutes a firm offer for at least 90 days from the last day of receipt of proposals set forth herein.
- Each criterion for selection must be addressed.
- There is a minimum twelve (12)-point font requirement for the basic text of the entire submittal. Any charts, graphs, table of organizations, etc., must be of readable size.
- One (1) original, one (1) copy, and one .pdf version on a USB drive of the submittals are due no later than **2:00 p.m., Friday, June 17, 2016**, to

Fred Fontana  
Executive Director  
Goldsboro-Wayne Transportation Authority  
PO Box 227  
Goldsboro, NC 27533

- Submittals shall be in a sealed, opaque envelope, clearly marked “RFP # - Development of 3-Year DBE Goal. **The proposed fee structure and schedule shall be provided in a separate, sealed envelope.**
- Late submittals, or those delivered by facsimile, electronic mail, or any other format other than bound paper copies, will be deemed non-responsive and will not be considered for the project.

The GWTA has an overall Disadvantaged Business Enterprise (DBE) Goal. There is no specified goal for this individual project. The GWTA encourages disadvantaged, minority, and women-owned consultant firms to respond.

From the issuing date of this RFP until 2:00 p.m. Monday, June 6, 2016, all questions and inquiries should be submitted in writing by mail, fax or E-mail to the following:

Questions regarding this Request for Proposals should be directed to Fred Fontana, [fred.fontana@waynegov.com](mailto:fred.fontana@waynegov.com) or by fax at 919-731-1558 or by mail at GWTA, PO Box 227, Goldsboro, NC 27533.

All prospective offerors will be notified of questions and responses by addendum by the close of business on Friday, June 10, 2016.

Prices shall not be made public until the contract is awarded. Proposals may not be withdrawn after the submission date.

This solicitation does not obligate the GWTA to pay for costs incurred in the preparation of proposals or to award a contract. The GWTA reserves the right to accept or reject any or all proposals, or to cancel in part or in whole, this solicitation.

## **Proposal Format**

### **Cover Letter**

- Include a Letter of Transmittal signed by the person(s) with the authority to bind the firm and answer questions or provide clarification concerning the submitted proposal. Include the following information:
  - Firm name, address, telephone number,
  - Contact Name & Title
  - Year Business Established
  - Type of Organization
 Indicate whether a sole proprietor, partnership or corporation and whether or not a disadvantaged business enterprise (DBE).

### **Statement of Qualifications**

- State qualifications and relevant experience in conducting business similar to that, which is required herein, within the last three (3) years.

### **References**

- Provide three (3) client references from prior transit system studies conducted in the last two (2) years. Include organization name, address, telephone number, and name and title of a contact person.

### **Resumes of Key Personnel**

- Provide resumes showing the names, experience, and professional qualifications of the key personnel to be assigned to this project. If subcontractors, joint ventures, or both are contemplated, include the qualifications, experience, and references of the entire team.

### **Work Plan**

- Submit a detailed work plan describing how you intend to provide the services outlined in the scope of work. Describe the technical approach to be taken for the work required. Provide a clear explanation of how the work will be organized, including a diagram showing the name of the committed team member, how they will interact, and the intended level of involvement for each team member. If subcontractors, joint ventures, or both are contemplated, identify the entire team, and specifically identify the intended lead of the prime contractor. Provide a project progress schedule. The schedule should provide specific milestones for the project.

### **Quality Control Plan**

- Submit a quality control plan describing how you intend to meet the requirements outlined in the scope of work.

### **Cost Factors**

- Include detailed costs. Line items should include the different tasks, the level and number of personnel to be used; hours devoted to project by level, hourly pay rate by level, travel costs, printing costs, and overhead rates. The cost proposal must include a “not to exceed” total for the project.

### **Disclosure of Proposal Contents**

Cost and price information provided in all proposals will be held in confidence and not revealed or discussed with competitors. All material submitted becomes the property of the GWTA and may be returned only at the GWTA’s option. Proposals submitted to the GWTA will be reviewed and evaluated by persons of the City’s choosing, other than competing proposers. The GWTA retains the right to use any and/or all ideas presented in reply to the RFP. Eventual selection or rejection of proposals does not affect this right.

## **VI. CONSULTANT SELECTION PROCEDURE**

Selection of the successful proposal shall be generally based on the information provided by the Consultant in response to the Request for Proposals and any subsequent interviews that may be conducted. Consultant interview will be held solely at the option and discretion of the City. The process for selection shall occur in the following sequence:

- Review and Ranking of Proposals (with cost proposal remaining sealed)
- Ranking of Proposals (with cost proposal unsealed)

- Establish a “short list”
- Interview “short-listed” firms (at the option and discretion of the GWTA)
- Identify best qualified firm
- Award contract

A project selection committee will be formed to evaluate the proposals and to make recommendation to GWTA Board of Directors. The contract award will be made by the Goldsboro City Council. This committee may consist of representatives from various departments within the GWTA and the City of Goldsboro and/or representatives from other neighboring transit systems. Composition of this committee is at the sole discretion of the GWTA. Names of the committee members will not be released prior to the time of interviews.

The committee will review the proposals for format to ensure conformance with the requirements of the RFP and may select finalists to interview with the Committee as a part of the Committee’s evaluation process. The GWTA does not guarantee that an interview will take place, thus reserving the right to select a consultant based solely on the information provided in the proposals received in response to the RFP.

**Evaluation Criteria:**

The following information and criteria will be used to evaluate and rank responses and the presentation, should the GWTA choose to conduct interviews with short-listed firms:

<b>Criteria</b>	<b>Weight</b>
1. The proposers’ experience with similar projects. The proposers’ past record of performance on contracts, including factors such as cost control, quality of work, and ability to meet schedules.	15%
2. The qualifications and experience of the key project members.	15%
3. Capacity to perform the work as proposed in the work plan taking into account the proposed schedule and individual workloads within reasonable limitations.	25%
4. Capacity to facilitate close coordination and oversight during the project, including firm location and its subcontractors and provisions for regular meetings with staff and/or the steering committee during the project.	5%
5. How well and thoroughly the proposal addresses the scope of work outlined in the RFP, the methodology to be utilized, the work plan including a timetable and the overall content of the proposal.	25%
6. Proposed Cost of Study	15%
Total	100%