

**SECTION A
INSTRUCTIONS TO BIDDERS**

1.0 GENERAL

- 1.1 The Chattanooga Area Regional Transportation Authority (hereinafter referred to as CARTA) seeks sealed bids from qualified firms to provide twelve months supply of petroleum products.

These instructions provide detailed legal and technical requirements for this acquisition.

CARTA is a public agency responsible for providing public transportation services within the city of Chattanooga.

- 1.2 "Purchaser" or "Grantee", means CARTA. The words "bid" and "offer" are synonymous and it is understood that once CARTA accepts the same, the document will constitute the contract contemplated by these instructions. The words "Bidder", "Contractor" and "Vendor" are also synonymous.
- 1.3 This Invitation for Bid (IFB) does not commit CARTA to award a contract or pay any costs incurred in preparation of bids in response to the IFB. Bidders shall be responsible for all costs incurred as part of their participation in the pre-award process.
- 1.4 **Bids will be received by CARTA at its Purchasing offices located at 1617 Wilcox Blvd, Chattanooga, TN 37406 ATTN: Annie Powell until 2:00 p.m., January 17, 2023. BIDS RECEIVED AFTER THIS DATE AND TIME WILL BE RETURNED TO THE BIDDER UNOPENED.**

All Bids shall be deemed received at the above address. Bidders are solely responsible for ensuring that his/her Bid is timely delivered. Bidders who rely on overnight delivery services, the United States mail, private mail services, local couriers or delivery services remain solely responsible for timely delivery of the Bid and assume all risk of late delivery, mis-delivery and non-delivery.

All Bids will be date/time stamped and deposited by CARTA Staff.

Bidders are reminded that all Bids must be securely sealed, have the enclosed label attached and be clearly marked "Bid".

Please note that the Purchasing Department's hours are 8:00 a.m. to 4:00 p.m. Acceptance of sealed bids and proposals will only be made during these hours. If you choose to use a delivery service, please note the deliveries must be made within these hours. Bidders are reminded to examine each page carefully and execute/sign all sections that apply to this solicitation and their sole responsibility for ensuring that it is deposited in the Purchasing Department.

Bidders may verify receipt of Bids by contacting CARTA at (423) 629-1411.

- 1.5 All bids and related documents shall be subject to a financial assistance contract between CARTA and the United States Department of Transportation, under the Federal Transit Act, as amended, and terms and conditions established under the Act will apply.

2.0 BID REQUIREMENTS

- 2.1 Bids must set forth full, accurate, and complete information required by this IFB including any attachments.

- 2.2 The Bidder shall provide all the work described in Section B - Scope of Work.
- 2.3 CARTA has prepared and attached to these instructions the required bid form. This bid form and all accompanying documents or certifications and materials submitted by the bidder will be deemed to constitute part of the bid.
- 2.4 The price quoted in any bid shall include all labor, materials, tools, equipment and other costs necessary to fully complete the work as set forth in the Scope of Work. Anything omitted from the scope of work, which is clearly necessary for the completion of the work, should be considered a portion of the bid. CARTA has listed a separate line item for Federal DSL LUST Tax and Oil Spill Tax.

3.0 BID FORMAT

- 3.1 Bidders are required to submit bids in the following format:

A. Bid Forms and Attachments

- 1) Bid Form
- 2) Exhibit I, Affidavit of Non-Collusion (see General Provisions, Attachment A)
- 3) Exhibit II, Firm Information for CARTA Bidders List (see General Provisions, Attachment B)
- 4) Exhibit III, Buy America Certificate (see Special Provisions, Attachment 2)
- 5) Exhibit IV, Lobbying Certification (see Special Provisions Attachment 10)
- 6) Exhibit V, Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions (See Special Provisions, Attachment 12)
- 7) Addenda Acknowledgement (See Special Provisions, Attachment 14)
- 8) Bidders Checklist (See Special Provisions, Attachment 15)
- 9) References from clients whose structure is similar to CARTA. References should include names, addresses, and telephone numbers of selected clients.

4.0 BID PROCEDURES

- 4.1 CARTA reserves the right to postpone the bid opening for its own convenience and to waive any minor bid informalities, which do not go to the heart of the bid or prejudice other bidders, or to reject, for good and compelling reasons, any and all bids submitted. CARTA reserves the right to withhold the award if deemed in the best interest of CARTA.
- 4.2 Conditional bids or those, which take exception to the specifications, will be considered "non-responsive".
- 4.3 Changes to the instructions and/or specifications will be made by written addendum by CARTA and will be forwarded to all persons and firms to who bid documents have been submitted. **ANY VERBAL COMMUNICATION IS NOT CONSIDERED CARTA'S OFFICIAL RESPONSE.**
- 4.4 Requests for clarification or approved equal must be submitted in writing to Annie Powell, CARTA, 1617 Wilcox Blvd, Chattanooga, TN, 37406 and must be received **no later than 4:00 p.m. local time, on January 10, 2023.** Any unapproved deviations, exceptions, substitutes, alternates or conditional qualifications contained in a bid may be cause for its rejection. Requests may be faxed to (423) 698-2749 or sent to Annie Powell at anniepowell@gocarta.org . **VERBAL QUESTIONS WILL NOT BE ANSWERED, THUS PREVENTING AN UNFAIR ADVANTAGE TO ANY BIDDER.**
- 4.5 Bidders shall submit an original of their respective bid. Bids shall be securely sealed to prevent access prior to the bid closing date. Bids shall be clearly marked with the enclosed label attached.

- 4.6 Bids shall be valid for a minimum period of 7 days subsequent to the bid closing date. Bids offering less than 7 days for acceptance by CARTA from the bid closing date will be considered non-responsive. However, it is CARTA's intention to award the contract within 24-48 hours of bid receipt.

5.0 BID EVALUATION AND CONTRACT AWARD

- 5.1 The contract will be awarded to the lowest and best bidder. Lowest and best will mean that bid presented by the responsible bidder which conforms with all material items and conditions of this IFB and is lowest in price. CARTA will award based on the lowest overall cost. CARTA will not separate diesel and gasoline awards.
- 5.2 CARTA reserves the right to reject any and all bids or to waive minor informalities and irregularities in bids received.
- 5.3 A written notice of award or Acceptance of Offer, mailed or otherwise furnished to the successful Bidder within the time specified in the bid, shall be deemed to result in a binding contract.

6.0 LIQUIDATED DAMAGES

In the event of non-delivery of scheduled deliveries, CARTA shall assess as liquidated damages and not as penalties, a sum of \$10.00 for each load plus the difference in price if higher than contracted price of undelivered product required by the contract.

CARTA will deduct and retain out of any money due or becoming due hereunder the amount of liquidated damages.

SCOPE OF WORK

- 1.1 **SCOPE:** CARTA is requesting sealed bids for twelve months' supply of ultra low sulfur diesel fuel and unleaded gasoline, on an as needed basis. The contract(s) will begin on or about February 1, 2023 and continue through January 31, 2024.
- 1.2 **BID PRICE:** Price quoted shall be F.O.B. the Authority's property located at 1617 Wilcox Blvd., Chattanooga, TN, 37406. CARTA is exempt from Federal, State and Local Taxes and shall provide appropriate documentation upon request.
- 1.3 **DELIVERY TIMES:** The carrier will be required to make deliveries between the hours of 8:00 am and 3:00 pm Monday through Friday, unless otherwise approved by CARTA. CARTA reserves the right to change delivery times due to emergencies or operational requirements. Changes in delivery times shall be approved and conveyed by CARTA in writing to the Contractor.
- 1.4 **INVOICING:** Billing will be required for each delivery based on a temperature correction at 60° Fahrenheit in accordance with the standard ASTM 1P petroleum measurement tables (ASTM designation D-1250). Invoices must show the gross loaded gallons and the net adjusted amount.
- 1.5 **PAYMENT:** CARTA shall pay Supplier within thirty (30) days of delivery or receipt of invoice (whichever is later). If a cash discount is not indicated in the space provided on the bid form, the terms will be Net 30 days.
- 1.6 **PRICE:** CARTA reserves the right to purchase diesel from other suppliers provided at least ten percent (10%) or greater savings may be obtained from the current contract price at the time of purchase. CARTA will commit to the gallons bid out for a firm contract.
- 1.7 **DROPPING PRODUCT:** The Supplier must have the necessary equipment to drop the product(s) ordered. CARTA WILL NOT provide any adapters. CARTA has one underground diesel tank, and one aboveground gasoline tank. Gasoline is a 10,000 gallon tank and diesel is a 30,000 gallon tank.
- 1.9 **CLEAN UP:** The Contractor shall clean up any fuel drippings or spills caused by their vehicles, equipment, or personnel, including subcontractors.
- 1.10 **MATERIAL SAFETY DATA SHEETS:** The bidder shall provide Material Safety Data Sheets with the bid.

BID FORM

SECURED PRICING (FIRM FOR THE CONTRACT PERIOD)

ONE-YEAR PERIOD

February 1, 2023 through January 31, 2024

BID TO: The Chattanooga Area Regional Transportation Authority. This bid is made in accordance with all bid requirements, conditions, specifications, and provisions on file in the offices of the Chattanooga Area Regional Transportation Authority, Chattanooga, Tennessee, which have been carefully examined and which are attached hereto.

<u>Item No.</u>	<u>Description</u>	<u>Est. Qty.</u>	<u>Per Gallon</u>	<u>Extended Price</u>
1.	Ultra Low Sulfur Diesel	180,000 gal.	_____	_____
2.	Taxes (Fed DSL Lust and Oil Spill Tax)	180,000 gal.	_____	_____
3.	Unleaded Gasoline	60,000 gal.	_____	_____
4.	Taxes (Fed DSL Lust and Oil Spill Tax)	60,000 gal	_____	_____

The undersigned understands that any conditions stated above, clarification made to the above or information submitted on or with this form – other than that requested may render the bid unresponsive.

NAME OF INDIVIDUAL/PARTNER/CORPORATION: _____

ADDRESS: _____

PHONE: _____ FAX: _____

EMAIL: _____

BY: _____ TITLE: _____

SIGNATURE: _____

IMPORTANT – BID MUST BE SIGNED

CARTA General Contract Provisions

A. Applicability

The following requirements and conditions shall be considered as an essential part of specifications and proposals. This document will serve as the contract for the project once the bid is awarded. If there is another contract document the following shall be considered part of that contract.

B. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act pursuant to 42 USC 6321 and 49 CFR part 18.

C. Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current "Master Agreement" between CARTA 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.

D. Recycled Products

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

E. No Government Obligation to Third Parties

- (1) CARTA 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 CARTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with assistance provided by CARTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

F. Program Fraud and False or Fraudulent Statements & Related

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.

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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. §

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1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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.

G. Privacy Act

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

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

H. Civil Rights Requirements

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III,

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IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., 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, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

I. Incorporation of 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

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by DOT, as set forth in FTA Circular 4220.1F, 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 CARTA requests which would cause CARTA to be in violation of the FTA terms and conditions.

J. Nondiscrimination - Title VI of the Civil Rights Act

The Contractor and any subcontractor agree to comply with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and U.S. 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.

The Contractor must include the above statement in any subcontract.

K. Interest of Member of, or Delegates to, Congress

No member of, or delegate to, the Congress of the United States, shall be admitted to any share or part of this contract, or to any benefit arising therefrom.

L. Conflict of Interest

The officers, employees or agents of the Chattanooga Area Regional Transportation Authority shall neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors, potential Contractors, or parties to sub-agreements.

M. Prohibited Interests

No employee, officer, board member, or agent of CARTA who is involved in, or is the supervisor of an employee who is involved in, contract specifications, solicitations, selection, or award, shall have any interests in this contract, or the proceeds thereof. In addition, no immediate family members or partners of an employee, officer, board member, or agent of CARTA who is involved in or is the supervisor of an employee who is involved in contract specifications, solicitations, selection, or award, shall have any interests in this contract, or the proceeds thereof. Nor shall any organization that employs or is about to employ an employee, officer, board member, or agent of CARTA who is involved in, or is the supervisor of an employee who is involved in, contract specifications, solicitations, selection, or award, shall have any interests in this contract, or the proceeds thereof. Finally, no organization that employs or is about to employ any immediate family members or partners of an employee, officer, board member, or agent of CARTA who is involved in or is the supervisor of an employee who is involved in contract specifications, solicitations, selection, or award, shall have any interests in this contract, or the proceeds thereof.

N. Tax Exemption and Tax Issues

CARTA is exempt from payment of all Federal, State, and local taxes. Said taxes must not be included in bid prices. CARTA will provide necessary tax exemption information upon request of Contractor after contract award. Contractor shall pay promptly all taxes, excises, license fees and permit fees of whatever nature, applicable to its operations hereunder and take out, pay for, and keep current all licenses, municipal, state, and federal, required for the conduct of its business pursuant to this contract, and further agrees not to permit any of the said taxes excises, or license fees to become delinquent.

O. Lawful Business Conduct

The Contractor shall conduct its business and perform services pursuant to this contract in a lawful manner, and shall fully comply at all times with all federal, state, and local laws with its business operations.

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P. Bid Rejection or Cancellation

CARTA reserves the right to waive any minor bid informalities or irregularities which are not crucial to the bid or prejudice against other bidders and/or to reject, for compelling reasons, any and all bids submitted. CARTA may reject all bids or cancel the solicitation before opening if it is deemed by CARTA to be in its best interest to do so.

Q. Non-Collusion

The bidder guarantees that the bid submitted is not a product of collusion with any other bidder and no effort has been made to fix the bid price for any bidder or to fix any overhead, profit or cost element of any bid price. An affidavit of Non-Collusion, as per attached format, must be signed and submitted with bid (Attachment A.)

R. Notices

All notices required to be given to CARTA hereunder shall be given by Certified Mail, Return Receipt Requested to General Manager, CARTA, 1617 Wilcox Blvd., Chattanooga, TN 37406.

Bidder shall identify person and address to whom notices shall be given in the bid.

S. Independent Status of CARTA and Contractor

The Contractor recognizes and acknowledges that neither it nor any of its employees are agents or servants of CARTA, and that Contractor is and shall remain an independent Contractor in the performance of all services hereunder.

T. Late Bids

Bids received after the exact time set for opening are late bids and will not be considered for award, unless it is determined by CARTA that there was mishandling on CARTA's part.

U. Modifications and Withdrawals of Bids

Bids may be withdrawn by written notice or telegram (including mailgram) received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established as an authorized officer of the company and the person signs a receipt for the bid.

V. Period of Acceptance of Bids

The bidder agrees, if this bid is accepted within 60 calendar days from the date specified in the solicitation for receipt of bids, to enter into a contract and/or furnish any or all items upon which prices are bid at the price set opposite each item, delivered at the designated points(s), within the time specified.

W. Bid Acceptance or Rejection

CARTA may accept any bid or reject any or all bids (even after opening), or to award the contract on such basis as CARTA deems in its best interest.

X. Right Infringement

Contractor agrees to save, keep, and hold harmless, and fully indemnify CARTA and its officers or agents from all damages, cost, or expenses in law or equity, that may at any time be claimed against CARTA for or in connection with any infringement of the patent, trademark, or other rights of any person or persons in the consequence of the use by CARTA, or any of its officers or agents, of any product or service supplied

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under the contract, arising from bids submitted, and any claim that the bidder did not have all necessary right and authority to sell the products or services to CARTA, provided CARTA gives the Contractor prompt notice in writing of any such claim.

Y. Firm Information for CARTA Bidder's List

Fill out attachment B in entirety and return with proposal or bid. In addition, for EACH subcontractor, who may be working for your firm under this contract, copy and fill out sub-contractor information.

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Attachment A

Affidavit of Non-Collusion

I hereby swear (or affirm) under penalty of perjury:

1. That I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);
2. That the attached bid or bids has been arrived at by the bidder independently and have been submitted without collusion and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or service described in the invitation to bid, designed to limit independent bids or competition;
3. That the contents of the bid or bids has not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid or bids, and will not be communicated to any such person prior to the official opening of the bid or bids; and
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Date _____

Signature _____

Company Name _____

Title _____

Subscribed and sworn to me before this _____ day of _____ 20_____

Notary Public

My commission expires _____

Proposers E.I Number _____
(number used on employers Quarterly Federal Tax Return)

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Attachment B (page 1 of 2)

Firm Information for CARTA Bidders List

1. Prime Contractor Information

- a. Firm Name _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

2. Subcontractor Information

Subcontractor 1

- a. Firm Name (Subcontractor 1) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

Subcontractor 2

- a. Firm Name (Subcontractor 2) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

Subcontractor 3

- a. Firm Name (Subcontractor 3) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

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Firm Information for CARTA Bidders List

Subcontractor 4

- a. Firm Name (Subcontractor 4) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

Subcontractor 5

- a. Firm Name (Subcontractor 5) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

Subcontractor 6

- a. Firm Name (Subcontractor 6) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

Subcontractor 7

- a. Firm Name (Subcontractor 7) _____
- b. Age of Firm _____
(number of years doing business under current name and or incorporation)
- c. Firm' Annual Gross Receipts (most recent completed/audited year) _____
- d. Name of Project Proposal was submitted for _____

CARTA Internal Use Only

Procurement Officer determine status:

- 1. CARTA/TN UCP DBE (Y/N) _____
- 2. Included on Bidder List (date) _____

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Attachment C – Title VI Contract Monitoring

CARTA is required to maintain records of those ethnic and gender groups who are awarded contracts.

For Title VI compliance, we ask for voluntary disclosure of the following information:

Gender: Male ____ Female ____

Race: Caucasian ____

African-American ____

Hispanic ____

Other (please specify) ____

CARTA Special Contract Provisions

1. Applicability

The following requirements and conditions shall be considered as an essential part of specifications and proposal. This document will serve as the contract for the project once the bid is awarded. If there is another contract document the following shall be considered part of that contract.

2. Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to CARTA the appropriate Buy America certification (Attachment 2 for steel or manufactured products or Attachment 3 for rolling stock and related purchases) with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

3. Lobbying

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 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.

Attachment 10 must be filled out and returned to CARTA with the bid or proposal.

4. Access to Records and Reports

- a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports,

CARTA Special Contract Provisions

statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

- b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

5. Default and Termination

1. General Termination Provisions-Transportation Services, Professional Services, Supplies, Other Services, Service, and Transit Services Contracts.

a. Termination for Convenience

CARTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in CARTA's best interest. The Contractor shall be paid its fees or its costs, and profit on work performed up to the time of termination, but no unearned profit or fees on work not yet performed. The Contractor shall promptly submit its termination claim to CARTA to be paid the Contractor. If the Contractor has any property in its possession belonging to the CARTA, the Contractor will account for the same, and dispose of it in the manner the CARTA directs.

b. Termination for Default

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

CARTA Special Contract Provisions

If it is later determined by CARTA 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, CARTA, 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.

c. Opportunity to Cure

CARTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days 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 CARTA's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor or written notice from CARTA setting forth the nature of said breach or default, CARTA 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 CARTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach

In the event that CARTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CARTA shall not limit CARTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

6. Clean Water Requirements

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.

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 or CARTA.

7. Clean Air and Excluded Facilities

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 CARTA and understands and agrees that

CARTA Special Contract Provisions

CARTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The contractor also agrees to comply with the provisions of 40 CFR Part 15 which prohibits the use of facilities included on the EPA list of violating facilities.

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

8. Debarment (Suspension from Gov't Purchases)

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, CARTA may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to CARTA 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 CARTA 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 CARTA.
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 (subcontracts) and in all solicitations for lower tier covered transactions.

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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, (CARTA) may pursue available remedies including suspension and/or debarment.

10. Contractor must complete Attachment 12 and submit it to CARTA with the bid or proposal.

9. Breaches and Dispute Resolution

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

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

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between CARTA and the Contractor arising out of or

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relating to this agreement or its breach will be decided by a court of competent jurisdiction in the Hamilton County, Tennessee.

10. Disadvantaged Business Enterprises – Purchases other than Revenue Vehicles

CARTA has an active DBE program required and authorized by the Federal Transit Administration. CARTA attempts to hire contractors and subcontractors that represent the community that CARTA serves. CARTA has consistently been able to achieve 10% DBE participation using race neutral measures and expects its contractors to strongly attempt to achieve the same or better.

Contract Assurance

The contractor 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 CARTA deems appropriate.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contractor receives from CARTA. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CARTA. This clause applies to both DBE and non-DBE subcontractors.

Sanctions/consequences of noncompliance with the prompt payment clause may include:

1. Requiring documentation of all payment to subcontractors for all previous payments from CARTA to the prime contractor before any future payments from CARTA to the prime contractor are made.
2. Termination of contract for Default
3. Inability of prime contractor to bid on any future CARTA contracts.

CARTA will ensure that the prompt payment clause of the contract is enforced by:

1. Requiring prime contractors (in sub-contracts in excess of \$10,000, to provide subcontractors with all contract provisions, including the prompt payment provision.) Essentially, ensuring that subcontractors are knowledgeable of the prompt payment requirement.
2. Because our contract requires prompt payment by the prime to the sub, the sub is entitled to prompt payment. Because subcontractors will be aware of this right, and it is in their greatest financial interest to assure that this right is respected, we believe it is reasonable to expect that subcontractors not receiving prompt payment will contact CARTA.

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3. If CARTA is contacted by a subcontractor regarding possible violation of the prompt payment clause by the prime contractor we will make inquiries to the prime contractor. Depending on the response from the prime contractor, CARTA may implement the sanctions/consequences listed in the above section.

Legal and Contract Remedies

In the event a prime contractor fails to comply with its stated contract goals, and cannot show that a good faith effort has been made to do so, CARTA shall initiate the following actions:

1. If any findings are discovered during the process of fulfilling the contract are deemed to be fraudulent or dishonest conduct in connection with the DBE program, CARTA will notify the Department of Transportation's Inspector General, who in turn under 49 CFR 26 may sanction criminal prosecution, action under suspension and debarment or Program Fraud and Civil Penalties rule provided in 26.109.
2. CARTA will also consider similar action under our own legal authorities, including responsibility determination in future contracts. Such actions can include termination for default or prohibition from bidding on future CARTA contracts.

Monitoring and Enforcement Mechanisms

Prime contractors must maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of CARTA or DOT. This requirement also extends to any certified DBE subcontractor.

DBE Financial Institutions

CARTA encourages all prime contractors to use the financial service institutions owned and controlled by socially and financially disadvantaged groups. CARTA maintains a list of such institutions and will provide it to any contractors interested in utilizing them.

All prime contractors will include the above statements in this section in all subcontracts over \$10,000.

11. Equal Opportunity Employment for Non-Construction Contracts

The contractor agrees to comply with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements FTA may issue. Those equal employment opportunity (EEO) requirements include, but are not limited to, the following:

The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and

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that employees are treated during employment, without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor also agrees to comply with any implementing requirements FTA may issue.

The contractor will also insert this provision in all its sub-contracts.

12. No Subcontracting without Permission of CARTA

Contractor shall not assign, sublet, pledge or transfer its rights under this Agreement, in whole or in part, nor delegate or subcontract any of its duties or obligations under this Agreement nor grant any licenses or concessions hereunder, without the prior written approval of CARTA's General Manager or Executive Director. Such approval may be withheld at the sole discretion of CARTA.

13. Approved Equals

In all cases, products must be furnished as specified, but where brand names are used, consider the term "approved equal" to follow. The discretion to approve equal substitutions rests solely with CARTA. It is the responsibility of the bidder to furnish sufficient technical detail to support its position that substitutions are equal.

Requests for approved equals, clarification of specifications and protest of specifications must be received by CARTA, in writing, not less than seven (7) days before the scheduled bid opening. Any request for an approved equal or protest of the specifications must be fully supported with all necessary technical data, test results, or other pertinent information. CARTA's replies to requests will be postmarked at least four (4) days prior to the scheduled bid opening. CARTA may respond to request through e-mail or fax. The bidder must demonstrate the equality of his product to CARTA in order that CARTA may determine whether the supplier's product is or is not equal to that specified. Parties dissatisfied with the decision of CARTA may utilize the appeal procedure set forth in CARTA's purchasing policy.

14. Additional Contractor's Insurance Requirements

- a. The Contractor shall obtain, maintain, and pay the premiums for insurance policies of the types and in the limits of not less than the following:
 - 1) (a) Worker's Compensation and (b) Employer's Liability Insurance endorsed with a Broad Form All States Coverage, which shall cover all the Contractor's Employees engaged in the performance of the work.
 - 2) Comprehensive General Liability Insurance Coverage with limits not less than required by the Umbrella Liability Insurance below and covering at least:

CARTA Special Contract Provisions

- (a) Operations – Premised Liability
- (b) Independent Contractor’s Liability
- (c) Broad Form Contractor’s Liability covering the Contractor’s obligations
- (d) Products Liability
- (e) Completed Operations Liability
- (f) Personal Injury Liability including claims arising from employees of the Contractor
- (g) Broad Form Property Damage Liability

3) Comprehensive Automobile Liability Insurance covering all owned, hired, and non-owned automobiles required by Umbrella Liability Insurance below.

Excess and Umbrella Liability Insurance in excess of 1)(b), and 2) above and not less than \$1,000,000.

4) Contractor shall also obtain and maintain other policies of insurance of the types and limits that contractor deems sufficient for its own protection.

- b. All Such insurance as indicated above shall be provided by insurance companies having a Best’s rating of not less than A: XII, as shown in the current issue of Best’s Key Rating Guide, Property-Casualty.
- c. Proof that such insurance coverage exists shall be furnished to CARTA in the form of certificates from the insurance companies before the Contractor commences any portion of the contracted work.

CARTA shall be endorsed as an additional insured under such policies.

Such certificates and/or endorsements shall provide that 30 days’ notice in writing shall be given to CARTA prior to any change or cancellation of underlying policies.

- d. The Contractor and all of its insurers shall waive all rights of recovery or subrogation against CARTA and its insurance companies.
- e. The Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970 and those of all applicable State Acts, Laws, or Regulations during the conduct of and the Contractor’s performance of this Contract. The Contractor shall indemnify CARTA for fines, penalties, and corrective measures that result from the acts of commission or omission of the Contractor, its subcontractors, if any, agents, employees and assigns and their failure to comply with such safety rules and regulations.

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- f. CARTA will give to the Contractor prompt notice in writing of the institution of any suit or proceeding and permit the Contractor to defend the same, and will give all needed information, assistance, and authority to enable the Contractor to do so. The Contractor shall similarly give CARTA immediate notice of any suit or action filed or prompt notice of any claim arising out of the performance of the Contract. The Contractor shall furnish immediately to CARTA copies of all pertinent papers received by the Contractor.
- g. The Contractor shall require its subcontractors, if any, to obtain an amount of insurance coverage which is deemed adequate by the Contractor. The Contractor shall be liable to the extent that the subcontractor insurance coverage is inadequate. The subcontractors, prior to commencing any of the work, shall submit certificates evidencing such insurance coverage to the Contractor.
- h. CARTA reserves the right to inspect, in person, prior to commencement of the work, all of the Contractor's insurance policies in regard to insurance required herein.

15. Award Based on Initial Proposals

Awards to proposers may be made, at CARTA's sole discretion, without discussion of proposals with proposers. Proposals should be submitted initially on the most favorable terms possible, from a price and technical standpoint.

16. Metric System.

The contractor understands that the Federal government, the USDOT or the FTA may issue guidelines, policies, or regulations requiring metric measurements in this project as may be required by 15 USC 205a (The Metric Conversion Act of 1975) and or Executive order 12770. CARTA may, to the extent it deems practicable and feasible, agree to accept products and services with dimensions expressed in the metric system.

17. Liabilities against CARTA

The contractor agrees to indemnify, defend and hold CARTA harmless from any and all claims and lawsuits by third parties (including, but not limited to, employees and agents of CARTA and the contractor), including the payment of all damages, expenses, penalties, fines, costs, royalties, charges and attorneys' fees incurred by CARTA which arise out of, or relate to contractors performance of the work required under this contract, whether concerning personal injury (or death), damage to property, or any other type of loss or claim, whether these claims or lawsuits are based upon negligence, intentional misconduct, breach of warranty, strict liability in tort, any failure by the contractor to comply with any laws pertaining to the contract documents, the use of patent appliances, products or processes, or any breach by the contractor of any of its other duties, representations, covenants, or the agreements in the contract documents. The contractor will defend all suits brought upon all such claims and lawsuits and will pay all costs and expenses incidental thereto, but CARTA

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shall have the right, at its option, to participate in the defense of any suit, without relieving the Contractor of any of its obligations hereunder.

18. Order of Precedence - Proposal

In the event of inconsistency between provisions of this solicitation prior to the parties entering into a contract, the inconsistency will be resolved by giving precedence in the following order: 1) the CARTA project completion timeline for performance as set forth in the solicitation (if any); 2) solicitation instructions and technical specifications, if included; 3) CARTA General Contract Provisions, CARTA Special Contract Provisions, and CARTA Additional Special Contract Provisions which are included in the solicitation documents; and 4) in the event of any inconsistencies between the technical specifications and a written request for approval that has been approved by CARTA, the request for approval will have precedence.

19. Order of Precedence – Contract

In the event of inconsistency between various documents that constitute the contract, the inconsistency will be resolved by giving precedence in the following order 1) any modifications approved by CARTA after the contract was signed; 2) any contract documents CARTA executes to award the contract (such as a purchase order, letter of contract award, or negotiated contract signed by both parties); 3) the Contractor's proposal including any approved equals or modifications approved by CARTA; and 4) the solicitation.

20. Use of “CARTA’s” Name in Contractor Advertising or Public Relations

The Contractor will not allow the CARTA logo(s) or any CARTA-related copy to be published in the Contractor's advertisements or public relations programs without CARTA's written approval and then only upon submitting such material to CARTA for review. The Contractor will agree that published information on CARTA or its services will be factual and in no way imply that CARTA endorsed the Contractor's firm, service, or product.

21. Protest procedures.

Any bidder wishing to protest prior to or after the award of a contract must follow CARTA's protest procedures contained below. Deadlines in protest procedures must be adhered to otherwise CARTA will not consider the protest. In addition, the protest must include a statement that that it is a protest, otherwise it will not be considered a protest.

Protest Procedures

Protests concerning CARTA's purchasing policies, the contract requirements, the specifications, the bidding procedures, or the contract award, or any other request for explanation or clarification must be submitted in writing to CARTA's Assistant Executive Director and must include the following information:

CARTA Special Contract Provisions

- The name and address of the protester.
- The name and telephone number of the protester's contact person having responsibility.
- A complete statement of the grounds of the protest with full documentation of the protester's claim.

a. Pre-award Protests

Pre-award protests must be received by CARTA no less than ten (10) working days before the scheduled bid opening. CARTA will respond to the protest in writing and render its final decision at least five (5) working days prior to bid opening. CARTA will report such protests to the FTA regional office.

b. Post-award Protests

Post-award protests will be received no later than five (5) working days after notification of the award bid. CARTA will have ten (10) working days after receipt of the formal protest package to evaluate, and issue a response, except in cases where the original bid has been awarded by the Board. In such cases, the decision to protest will be handled at the next regularly scheduled Board meeting, following completion of the staff review of the protests. CARTA will report such protests to the FTA regional office.

c. Appeals to FTA

It is the responsibility of CARTA to settle contract issues and disputes. CARTA is committed to using good sound administrative practices and business judgements, as well as professional ethics. Reviews of protests by FTA will be limited to alleged failure by CARTA to have followed proper protests procedures, or its failure to review a complaint or protest. Protesters dissatisfied with CARTA's final decision may appeal to FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation.

22. Addenda Acknowledgement

The bidder must submit with the Bid and Addenda Acknowledgement Form acknowledging receipt of all bid addenda issued by CARTA. Acknowledge receipt of addenda on Attachment 14.

23. Terms of Payment

Payment for the specified items shall be net thirty (30) days after acceptance. Bidder should note any discounts for payment before thirty (30) days.

24. Freight

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Freight charges to the locations specified by CARTA, or to 1617 Wilcox Blvd. Chattanooga TN 37406 if not specified, must be included in bid price.

25. Bidders Checklist

Bidders must fill out the bidders checklist in Attachment 15.

26. Safe Operation of Motor Vehicles

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

27. Simplified Acquisition Threshold

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

28. Cargo Preference Requirements

The contractor agrees:

- a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities
- b) pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

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- c) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- d) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

29. Fly America

- a) Definitions. As used in this clause—
 - 1) “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
 - 2) “United States” means the 50 States, the District of Columbia, and outlying areas.
 - 3) “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S. – Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

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- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

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Attachment 2

Buy America Certification for steel, iron, or manufactured products.

Certificate of Compliance With Section 165(a)

The bidder hereby certifies that it will comply with the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR part 661.

Date _____

Signature _____

Company Name _____

Title _____

Certificate for Non-Compliance With Section 165(a)

The bidder hereby certifies that it cannot comply with the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, as amended, but it may qualify for an exception to the requirement pursuant to section 165 (b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982 and regulations in 49 CFR 661.7.

Date _____

Signature _____

Company Name _____

Title _____

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Attachment 10 Lobbying Certification

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of 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 making lobbying contacts to 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 was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction 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 and not more than \$100,000 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. A 3801, et seq., apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

CARTA Special Contract Provisions

Attachment 12

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant (potential contractor) _____ certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The primary participant (potential contractor) _____ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

CARTA Internal Use Only

Procurement Officer determine status:

1. Contractor listed on Excluded Parties Listing Service (EPLS) (Y/N) _____

CARTA Special Contract Provisions

Attachment 14

Addenda Acknowledgement Form

Addenda received

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

CARTA Special Contract Provisions

Attachment 15

Bidders Checklist

This form must be completed and returned with the submission of bid documents. The bidder must use this checklist to help ensure all required certifications, affidavits, and documentation are provided. If the referenced attachment is not required, the bidder must right "N/A" in the check off space.

Attachment / Document	Description	Bidder Check Off	CARTA Check off
CSCP 2	Buy America Certification for steel, iron, or manufactured products.		
CSCP 10	Lobbying Certification		
CSCP 12	Debarment, Suspension, and Other Responsibility Matters		
CSCP 14	Addenda Acknowledgement Form		
CGCP A	Affidavit of Non-Collusion		
CGCP B	Firm Information for CARTA Bidder's List		

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

Tennessee State Contract Clauses

Conflicts of Interest.

The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract

Lobbying.

The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of 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.
- b. If any funds other than federally 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 contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, 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 was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352

Nondiscrimination.

The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant

Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

Public Accountability.

If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

Public Notice.

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

Records.

The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

Environmental Tobacco Smoke.

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract."