



2748 Wagener Road
PO Box 850
Aiken SC, 29802

REQUEST FOR PROPOSAL

“RFP #0423 TIS”

Best Friend Express (BFE) Transit Improvement Study (TIS)

Date of Issue

April 17, 2023

Proposal Due Date

June 5, 2023 at 3:00 PM

**LOWER SAVANNAH COUNCIL OF GOVERNMENTS (LSCOG)
REQUEST FOR PROPOSAL(RFP) #0423 TIS**

Solicitation Name: Best Friend Express (BFE) Transit Improvement Study (TIS)
Issued: Monday, April 17, 2023
Solicitation Posted: www.lscog.org
Point of Contact: Christine Chandler, Transit Program Manager
Phone: (803) 649-7981 or (803) 508-7061
Direct E-Mail Address: cchandler@lscog.org
Submit Offer By: Monday, June 5, 2023 at 3:00 PM
 Any Proposal received after the above date and time will be returned unopened to the original Proposer
Number of Copies: One (1) original signed in blue ink;
 Five (5) copies



**SUBMIT YOUR SEALED PROPOSAL TO EITHER OF THE FOLLOWING ADDRESSES:
Solicitation Number and Opening Date Must Appear on Package Exterior**

Mailing Address	Physical Address
Lower Savannah COG PO Box 850 Aiken, SC 29802 Attention: Christine Chandler	Lower Savannah COG 2748 Wagener Road Aiken, SC 29801 Attention: Christine Chandler

ORIGINAL MUST BE SIGNED IN BLUE INK AND BY AN OFFICIAL AUTHORIZED TO BIND THE FIRM TO THIS PROJECT

By signing this proposal, I certify that we (our firm) will comply with all requirements of Section 44-107-10 et seq., relating to the SC Drug Free Workplace Act.

AUTHORIZED SIGNATURE	PRINTED NAME	DATE
FULL COMPANY/FIRM NAME:		

SIGNER'S TITLE & EMAIL:		

UNIQUE IDENTIFIER ID:		

MAILING ADDRESS:		

PHONE NUMBER:		

ADDENDUMS TO, OR REJECTIONS OF, PROPOSALS

The Lower Savannah Council of Governments (LSCOG) reserves the right to implement addendums to the solicitation and its requirements up through May 11, 2023. **LSCOG also reserves the right to reject any and all submittals or proposals received as a result of this RFP.** All addendums to and interpretations of the solicitation shall be in writing from LSCOG's Point of Contact, Christine Chandler. Please check the LSCOG website at www.lscog.org over the course of this solicitation period to check for addendums. LSCOG is not liable for any costs incurred by Proposers prior to contract award.

Anticipated Schedule of Events

This solicitation does not require a Letter of Intent. A pre-bidder conference is not anticipated nor scheduled at this time.

Request for Proposal Issued	Monday, April 17, 2023
Deadline for Questions	Monday, May 1, 2023
Answers to Questions Posted on Website	No Later Than Monday, May 8, 2023
Deadline to Post Addendums if any	Thursday, May 11, 2023
Deadline for RFP Submission	Monday, June 5, 2023 at 3:00 PM
Public Opening	Monday, June 5, 2023 at 3:30 PM
Evaluation and Proposal Scoring	Completed No Later Than June 30, 2023
Short List Proposer Presentations, if required	
Letter of Intent to Award	By July 7, 2023
Final Negotiations and Contract Issued	By July 28, 2023
Project Kick-Off Event at LSCOG Offices	TBD
Final Report Due / Contract Closeout	No Later Than June 30, 2024

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LSCOG BACKGROUND

Lower Savannah Council of Governments (LSCOG) is one of ten regional organizations in South Carolina which coordinates cooperative development among local governments. Regional planning organizations are associations of local governments that seek regional solutions for common problems. COGs strengthen the individual and collective power of member counties and municipalities and help identify regional opportunities. They provide guidance and act as advisors when needed, but do not have authority over member counties. COGs are the middleman between local governments and public agencies to secure funding, promote projects and encourage growth on a regional level.

LSCOG, established in 1967, serves Aiken, Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg counties. The COG is governed by a Board of Directors, composed of thirty-nine members, who are appointed by participating county governments. The Board sets policy and provides direction to the COG's programs, with guidance from the Executive Director and COG staff.

LSCOG is a Direct Recipient of Federal Transit Administration (FTA) Section 5307 large urban funding for public transit serving the urbanized portion of Aiken County. This public transit service is known as the BEST FRIEND EXPRESS.

In 2004, LSCOG took over management of the Best Friend Express transit system, Aiken County's public transit service for the urbanized portions of the county. The Best Friend Express transit system has three fixed routes: **Red** (Aiken Express), **Green** (Aiken Metro: Aiken City to Langley Pond with connection to the Blue Route), and **Blue** (North Augusta: Langley Pond to North Augusta and Augusta). Since 2004, LSCOG implemented a 1st Run for both the Green and Blue Routes. Collectively the routes have approximately 138,000 annual revenue miles driven and serve approximately 25,000 passenger trips a year. Additional information about the Best Friend Express, and its complementary ADA paratransit service known as Dial-a-Ride, may be found at www.bestfriendexpress.com.

LSCOG has procured an operational contractor for the Best Friend Express, Aiken Area Council on Aging, Inc. dba Aiken Senior Life Services (ASLS).

LSCOG transit staff is developing a fixed route trip planner using the General Transit Feed Specifications (GTFS) data developed by the National Rural Transit Assistance Program (NRTAP) to post routes on Google Transit/My Maps.

PART I – SCOPE OF WORK

AIKEN SENIOR LIFE SERVICES (ASLS) BACKGROUND

In July 2022, ASLS, moved from their centrally located building in downtown Aiken to a new building five (5) miles east of their original headquarters. Since July 2022, all fixed route buses for all three routes deadhead to the Lessie B. Price Center (near the original headquarter) to start and end the routes. This increases the non-revenue mileage for all buses. The goal is to utilize the new building's transit lobby as start/end of the daily routes to benefit riders waiting for the next scheduled bus

and purchasing tickets. Furthermore, it may decrease the non-revenue mileage. The new building's address is 1310 East Pine Log Road, Aiken, SC 29803.

Due to the significant amount of local traffic at the new ASLS location throughout the day, all buses must take a right-hand turn out of the parking lot which will have a direct impact on any proposed bus stop start schedule and the direction for the fixed route(s).

GOALS & OBJECTIVES

LSCOG seeks a Consultant(s) who can complete a comprehensive Best Friend Express (BFE) Transit Improvement Study (TIS) to address the following goals and objectives:

- BFE fixed route bus stop changes,
- BFE fixed route bus stop departure/arrival changes,
- Recommendations for reduction of deadheads/non-revenue mileage,
- Recommendations for reduction in headways (i.e., splitting routes or starting buses at other locations) and applicable costs,
- Recommendations for increased ridership serving Aiken Technical College and the University of SC at Aiken,
- Recommendations for overall increased ridership,
- Recommendations for cashless fare transactions, and
- Research and recommendations for Microtransit options.

The study must include detailed transit analysis. The Consultant is expected to identify Geographic Information system (GIS) and other mapping data, tabular data, General Transit Feed Specification (GTFS)/Google Transit, documentation of public meetings and the results of

- Outreach to stakeholders and the public achieved through a combination of survey(s) and meetings,
- an analysis of the current transit system in comparison to the proposed improvements for the transit system and the fiscal commitments necessary,
- an analysis of any unmet mobility needs for passengers' travel, and
- an analysis reflecting the goals and objectives listed above.

The Consultant will document the results of the study and present it to stakeholders and the public as consideration for future public transit improvements in Aiken County.

PROJECT TASKS

The following tasks, at a minimum, are to be undertaken and produce deliverables that address the goals and objectives listed above and will become the property of LSCOG.

TASK #1: PROJECT KICK-OFF

The Consultant will assign a team lead to serve through the life of the contract as Project Manager working closely with the LSCOG transit staff and Aiken Senior Life Services staff.

Task #1 Deliverables:

- Project Kick-off meeting with LSCOG staff, Aiken Senior Life Services staff, and Consultant staff
- Project Management Plan addressing:
 - Public Participation Plan (PPP) and schedule
 - Consultant Staffing Assignments
 - Monthly Progress Reports
 - Monthly Invoices with supportive information to account for the invoices

TASK #2: ANALYSIS OF CURRENT TRANSIT SYSTEM

The Consultant will collect, compile, and review all documents and data pertaining to the current BFE Transit System. These documents may include the Best Friend Express Transit Development Plan (2017), access to TripMaster CTS software data, Augusta Regional Transportation Study (2020), GTFS data, FTA Census Data of new Urbanized Zoning and any collected data available at LSCOG.

The Consultant will determine the current transit connectivity and its efficiency between the fixed routes and stops from Aiken, SC to Augusta, GA, for all major usage of the transit system including employment, higher education, medical, entertainment, shopping, parks and recreation, etc.

Task #2 Deliverables:

- Observe and experience the Best Friend Express by riding the bus to evaluate its current efficiency status.
- Interview drivers and riders.
- **Technical Report #1** – Compile all documentation including but not limited to driver and rider interviews, maps, charts, GIS data for an analysis of the BFE’s current efficiency status.

TASK #3: STAKEHOLDER INTERVIEWS & PUBLIC OUTREACH

Preparation of the BFE Transit Improvement Study will involve extensive stakeholder involvement and public outreach. This component ensures input from key partners in the community and their perspective on the current transit system.

Task #3 Deliverables:

- Identify the stakeholders and conduct key partner interviews including representation from elected officials, education partners, employers, economic developers, community service organizations, non-profit organizations, etc.
- Execute any public outreach tools such as surveys to riders and non-riders in Aiken County

or any other selected approach.

- Outreach tools must be reviewed and approved by LSCOG.

TASK #4: STAKEHOLDER INTERVIEWS & PUBLIC OUTREACH OUTCOME RESULTS

The Consultant will combine the outcome of Task #3 and analyze its results.

Task #4 Deliverables:

- **Technical Report #2:** Analyze the interviews and outreach results, identify issues, and describe unmet needs for passengers' travel.

TASK #5: DRAFT BFE TRANSIT IMPROVEMENT STUDY (TIS)

The Consultant will compile all documentation collected from Task #2 through #4 for the development of a written draft of the BFE Transit Improvement Study for presentation to the public for the next step in public participation.

Task #5 Deliverables:

- Identify recommendations for public transit that could address the unmet needs in the community.
- Recommend any improvement options to the current transit system including a comparison analysis of the current system to the improvement options.
- Determine which constraints may arise with each improvement option implementation (i.e., financial: operating cost, equipment cost, etc.)
- **Technical Report #3:** Combine all deliverables into the BFE Transit Improvement Study Draft.

TASK #6: PUBLIC PARTICIPATION

Preparation of the BFE Transit Improvement Study will involve public participation through public meetings and continued public outreach. Public participation is a critical component of this process to ensure a continuing and comprehensive study process as well as community ownership.

Task #6 Deliverables:

- Organize, facilitate public meetings in Aiken (1) and North Augusta (1) to inform all interested parties (public, partners, and stakeholders) about the study's outcomes.
- Present the BFE Transit Improvement Study Draft with visual aids (i.e., Power Point presentation, white boards, smart boards, maps, charts, etc.)

TASK #7: FINAL BFE TRANSIT IMPROVEMENT STUDY (TIS)

The documentation of the study is a key component in the process which will provide the identification of the recommended transit system's improvements for the next five (5) years. For this report, the Consultant will collaborate with the kick-off team members in Task #1 for deliberation of a condensed improvement list based on constraints of one improvement option selected for adoption over another.

The Final TIS will then be made available for local distribution and to LSCOG Board Members.

The Consultant must furnish an electronic copy of all presentations, graphic depictions, written narratives, and printed materials related to the Final TIS in both a PDF and Word/Excel version to LSCOG.

Task #7 Deliverables:

- **Final TIS:** Prepare a written, comprehensive, annotated final report of the BFE Fixed Route Improvement Study for distribution to the public.
- **Executive Summary Report:** Prepare a highly condensed report combining the current transit analysis, recommendations, public participation, and Final TIS into one document for the public.

PART II - PROPOSAL CONTENTS

To be considered for award, all proposals must include, at a minimum, the following information. Proposers should restate each item listed below and provide their response immediately thereafter. Proposals will be evaluated and awarded based on the proposal most advantageous to LSCOG.

All information should be presented in the listed order:

Cover Letter

Proposers shall submit a cover letter which includes a summary of the Proposer's ability to perform the services described herein and statement that the Proposer is willing and able to perform those services and enter into a contract with the LSCOG. The cover letter will include the solicitation number and closing date. The letter must be signed by a person having the authority to commit the Proposer to a contract. Any offered pricing or quotes should be identified as being honored by the Proposer for up to 90 days after the close of this solicitation.

Proposal Narrative

Proposers shall explain their overall understanding, concept, and approach to the project by addressing each Task and Deliverable identified under Part I - Scope of Work. Proposers are encouraged to add to any tasks to be performed or deliverables to be completed if they are convinced the project would benefit from something additional their firm can supply.

Experience and Qualifications

Proposers should outline their company location, size, and brief history. Proposers should include information concerning the number of years the company has been providing services to support transit planning and the company's current ownership arrangement. Include information concerning the financial stability of the company. Please reference previous projects, and their date of completion, that can reflect experience with similar studies or transit planning tools.

Personnel

Acknowledge in the proposal that the Proposer is always an independent contractor and not an agent of LSCOG. Please include a personnel description for the primary positions needed to staff the

proposed project and the resumes of such staff. Include an organizational chart. Please highlight any experience with similar projects.

Personnel descriptions are also required for any work to be performed by a subcontractor.

References

At least three (3) references must be included in the proposal packet including: Company names, addresses, signatory authority and subject matter experts' names and e-mail addresses, telephone numbers, and identification of the consulting services performed.

The references selected should be prepared to discuss the quality, performance, cost, and timeliness of past service offered by your company. The LSCOG reserves the right to contact other persons not specifically listed as references but who may have direct knowledge of the projects.

Cost

A cost proposal must be included and detail the following:

1. Description of costs. The cost proposal must be comprehensive and demonstrate maximum value, innovation, and effectiveness.
2. Detailed cost breakdown. Provide a complete cost for each task identified in Part I - Scope of Work and the estimated hours anticipated to complete each task. Please include a budget for direct expenses.
3. A total cost in lump sum must be clearly identified.

Subcontractors

If the Proposer plans to subcontract services, the proposal must address the nature of the subcontractor's tasks. The Proposer shall be professionally and legally responsible for the work of the subcontractor and must assure that the subcontractor meets all requirements of this proposal package.

LSCOG strongly encourages the expertise of a Disadvantaged Business Enterprise (DBE) as a subcontractor. The participation of a DBE assists LSCOG to be in compliance with the FTA Civil Rights Office. Any DBE and its area of expertise shall be identified in the proposal as well as the planned amount allotted to the DBE's portion compared to the overall cost proposal. All DBE's paid through FTA funds must be certified by the SC Department of Transportation. For more information, please visit <https://www.scdot.org/business/bus-development-dbe-certification.aspx>.

Litigation

State, with explanation, whether or not your firm has been involved in any litigation within the past five years. Include an explanation of the results of the litigation.

PART III. PROPOSAL INSTRUCTIONS

A. Questions Concerning This RFP

Written questions concerning this RFP will be accepted by COB May 1, 2023. Questions submitted by properly addressed mail or by e-mail will be accepted.

Please mark the envelope or e-mail subject line: **Questions RFP #0423 TIS**. These replies will be answered and posted to the LSCOG website (www.lscog.org) no later than May 8, 2023, so that all potential Proposers may view the content of all inquiries, and the ensuing responses.

Please forward your written questions to:

Lower Savannah Council of Governments
Dana Luttrull, Grants Compliance Manager
2748 Wagener Road or Post Office Box 850
Aiken, South Carolina 29801 (for street) or 29802-0850 (for PO Box)

Or

dluttrull@lscog.org

B. Request for Proposal Requirements

The Proposer is required to have the following information typed or printed on the outside of the sealed package containing the Request for Proposal:

1. Name and Address of the proposing organization
2. The Solicitation Number 0423 BFE Transit Improvement Study
3. Closing Date and time of receipt of Proposal of June 5, 2023 at 3:00 PM
4. Attn: Christine Chandler

C. Public Opening

Tuesday, June 5, 2023 at 3:30 pm at LSCOG Offices

Due to the possibility of negotiation with any Proposer submitting a proposal which appears to be eligible for contract award pursuant to the selection criteria set forth in this Request for Proposal (RFP), the content of the proposal will not be divulged at time of opening.

D. Responsive Proposal

All proposals must be complete and convey all of the information requested in order to be considered "responsive." If the proposal fails to conform to the essential requirements of the RFP, the LSCOG alone will be the judge as to whether that variance is significant enough to consider the RFP non-responsive, and therefore not considered further for award. Any Proposer with a determination of "non-responsive" will be informed in writing.

E. Availability of Funding

The obligation under this proposal and the subsequent contract is contingent upon the availability of sufficient funds from which payment for the contract purposes can be made as determined by LSCOG.

F. Responsible Proposal

Proposers must be considered “responsible” and furnish satisfactory evidence of their ability to furnish services in accordance with the terms and conditions of these specifications. The LSCOG reserves the right to make the final determination in its discretion as to the Proposer’s ability to provide the products or services requested herein.

G. Competition

This solicitation is intended to promote competition. If the language, specifications, terms and conditions or any combination thereof is believed to restrict or limit the requirements in this solicitation to a single source, it shall be the responsibility of the interested Proposer to notify the LSCOG in writing as quickly as possible after the release of the solicitation but no later than May 1, 2023. The solicitation may, or may not, be changed but a review of such notification will be made prior to the award.

H. Proposer Presentations (if required)

Proposers may be asked to present and discuss their work and qualifications to the evaluation committee either in person or via an online platform i.e., Zoom or Teams. If required, a date will be determined.

I. Award Notification

A Letter of Intent to Award will be sent to the successful Proposer. Notice regarding any award will be sent to each Proposer.

J. Protests

Any actual Proposer who is aggrieved in connection with the intended award for contract shall protest within ten days of the date of notification to award. Any protest shall follow the relevant policies and procedures of the LSCOG. For more information regarding the LSCOG Appeals and Protest Procedures, please click [here](#).

K. Indemnification

The LSCOG, its officers, agents, and employees shall be held harmless from liability by the Proposer or contractor from, and indemnified by the Proposer or contractor for, any claims, damages, and actions of any nature arising from the use of any materials furnished by the Proposer or contractor, provided that such liability is not attributable to sole negligence on the part of the LSCOG or failure of the LSCOG to use the materials in the manner expressly outlined by the Proposer or contractor in descriptive literature or specifications submitted with the contractor’s proposal.

PART IV. EVALUATION OF PROPOSALS

Proposals will be reviewed and evaluated by an evaluation committee based on the following criteria (listed in order of importance) for a recommendation to the LSCOG Board. Any award under this RFP may only be made by the LSCOG Board based on the determination in its discretion of which proposal, if any, is the most advantageous to the LSCOG. The actual contract award is not final until a contract acceptable to the Executive Director is presented and the final signature of both the Executive Director of the Council and the successful Proposer has been affixed on the contract. LSCOG also reserves the right to reject any and all submittals or proposals received as a result of this RFP.

1. **40% - Proposer's understanding of the project, approach to provision of the services, and the allocation of time on specific tasks.** Evaluation will be based on the proposal's technical "soundness," comprehensiveness, and the techniques to be used.
2. **35% - Proposer's capability and qualifications.** The Proposer's staff experience, education, and training. References from current/prior clients. The Proposer's prior work history on similar scopes of work.
3. **20% - Cost of the services as outlined in the proposal.**
4. **5% - Schedule.** The Proposer will be evaluated on its ability to follow a schedule that will successfully complete the project within the required time frame.

PART V. PROCUREMENT CLAUSES

PROPOSAL AS OFFER TO CONTRACT

By submitting your proposal, you are offering to enter into a contract with LSCOG. The award and subsequent contract will be issued to the entity identified as the Proposer on the cover page. If you withdraw your proposal, you must notify LSCOG in writing prior to June 9, 2023.

DUTY TO INQUIRE

Proposer, by submitting a proposal, represents that he/she/it has read and understands the Solicitation and that the proposal is made in compliance with the Solicitation. Proposers must examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation no later than May 1, 2023. Failure to do so will be at the Proposer's risk. Proposer assumes responsibility for any patent ambiguity in the Solicitation that Proposer does not bring to the LSCOG's attention prior to May 1, 2023.

ETHICS CERTIFICATE

By submitting a proposal, the Proposer certifies that the Proposer has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the S. C. Code of Laws, as amended (Ethics Act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The LSCOG may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision or the Ethics Act. If contractor or Proposer participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the LSCOG procurement officer at the same time the law requires the statement to be filed. [State Ethics Commission Opinion 02-2A075-2]

SUBMITTING CONFIDENTIAL INFORMATION

Proposers must clearly mark as "confidential" or "trade secret" or "protected" each part of their proposal which they consider to be proprietary information that could be exempt from disclosure under Section 30-4-40 or Section 11-35-410, Code of Laws of South Carolina, 1976, as amended (S.C. Freedom of Information Act). If any part is designated as confidential, there must be attached to that part an explanation of how this information fits within one or more categories listed in section 30-4-40. LSCOG reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against the LSCOG or its agents for its determination in this regard. **Note:** Marking your entire proposal confidential/proprietary is not in conformance with the S. C. Freedom of Information Act and will not be accepted.

PART VI. LSCOG – REQUIRED GENERAL CONTRACT CLAUSES

For the purpose of this Part VI, the terms “Proposer” and “Contractor” and “you” have the same meaning. A Contractor is a successful Proposer awarded the contract on the RFP.

The following provisions shall be included in any contract between the LSCOG and a successful Proposer on this RFP. The final contract must be in a form and with contents acceptable to the LSCOG. The LSCOG may not agree to indemnify or hold harmless other parties.

NON-APPROPRIATIONS

Any contract entered into by the LSCOG resulting from this proposal invitation shall be subject to cancellation without damages or further obligation when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year as determined by the LSCOG.

ASSIGNMENT

No contract or its provisions may be assigned, sublet, delegated or transferred without the written consent of the Executive Director.

AUDITS AND REVIEWS

The Contractor shall, throughout the life of the contract, participate in State and Federal audits. The Contractor shall provide support to LSCOG during any and all audits. The support shall include, but shall not be limited to, producing documentation, gathering data, preparing reports or correspondence, and assisting LSCOG in responding to questions. Please see more details regarding access to records under the FTA Clauses section found later in this document.

COMPLIANCE WITH CODES, ORDINANCES, INDUSTRY STANDARDS

During the term of this contract, it shall be the Contractor's responsibility to ensure compliance with all applicable provisions of laws, codes, ordinances, rules and regulations, tariffs, and industry standards. State or Federal requirements that are more restrictive shall be followed.

CONTRACT AMENDMENTS, MODIFICATION AND CHANGE ORDERS

Any change orders, alterations, amendments, or other modification hereunder shall not be effective unless reduced to writing and approved by the LSCOG and the contractor.

FORCE MAJURE

The contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include but are not restricted to acts of God or of the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by default of a subcontractor, and if such default arises out of the causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the

supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet required delivery schedule.

ILLEGAL IMMIGRATION

By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the S. C. Code of Laws and agree to provide to the LSCOG upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14 Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractor's language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractor's language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [S.C. Ethics Commission Opinion 07-7B097-1]

OWNERSHIP OF MATERIAL

Ownership of all data, material and documentation originated and prepared for the LSCOG pursuant to this contract shall belong exclusively to the LSCOG.

PUBLICITY RELEASES

The Contractor shall not have the right to include LSCOG's name in its published list of customers without prior written approval of the LSCOG. With regard to news releases, only the name of the Contractor, type and duration of contract may be used and then only with prior written approval of LSCOG. The Contractor agrees not to publish or cite in any form any comments or quotes from LSCOG Board members, employees, or staff. The Contractor further agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by LSCOG.

SAFTETY PRECAUTIONS

LSCOG assumes no responsibility with respect to accidents, illness, or claims arising out of any work undertaken with the assistance of funds paid under the contract. The Contractor shall take necessary steps to insure or protect itself and its personnel. The Contractor agrees to comply with all applicable local, state, and federal occupational and safety acts, rules, and regulations.

SAVE HARMLESS AND OTHER RELATED MATTERS

The successful Contractor shall indemnify and save harmless the LSCOG and all officers, agents, and employees, from all suits or claims of any character brought by reason of infringing on any patent, trademark, or copyright. Contractor shall have no liability to the LSCOG if such patent, trademark or copyright infringement or claim is based upon the Contractor's use of material furnished to the Contractor by the State of South Carolina.

The Contractor shall fully indemnify and save harmless the LSCOG and all of its officers, agents, and employees for and from all suits, actions, claims, losses or damages of any character brought or

caused by reason of Contractor's performance or failure to perform under the contract or the Contractor's provision of, or failure to provide, services under the contract, except where the gross negligence of the LSCOG or its officers, agents or employees, is the sole cause of the lossess or damages sustained by a third party.

The contract will be governed by, and construed in accordance with, the laws of the State of South Carolina. The state courts of South Carolina located in Aiken County, South Carolina shall have exclusive jurisdiction to hear and decide any dispute between the Contractor and LSCOG relating to this contract or the operation and provision of the transportation services which are the subject of this contract. Contractor submits to the jurisdiction and venue of such courts and hereby waives any and all objections thereto.

PART VII: FTA REQUIRED CLAUSES

FTA CLAUSES CHECKLIST MATRIX FOR PROCURMENT FILES

Please click on the applicable highlighted FTA clauses in the list below for more detail.

FTA Clauses	Professional Services	Contract Thresholds
Access to Records and Reports	✓	
Americans with Disabilities Act	✓	
Bond Requirements		
Buy America Requirements		
Byrd Anti-Lobbying Amendment	✓	>\$100,000
Cargo Preference		
Charter Services		
Civil Rights Laws and Regulations	✓	
Clean Air Act & Federal Water Pollution Control Act	✓	
Contract Work Hours & Safety Standards Act		
Davis Bacon Act and Copeland Anti-Kickback Act		
Debarment and Suspension	✓	>\$25,000
Disadvantaged Business Enterprise (DBE)	✓	
Energy Conservation	✓	
Equal Employment Opportunity		
Federal Charges	✓	
Fly America (applies to foreign air transportation/travel)	✓	
Incorporation of FTA Terms	✓	
No Government Obligation to Third Parties	✓	
Notification to FTA	✓	
Pre-Award & Post-Delivery Audits of Rolling Stock Purchases		
Procurement of Recovered Materials		
Program Fraud & False or Fraudulent Statements and Related Acts	✓	
Prohibition on Certain Telecommunication & Video Surveillance Services or Equipment	✓	
Prompt Payment	✓	
Public Transportation Employee Protective Arrangements		
Safe Operations of Motor Vehicles		
School Bus Operations		
Section 6002 of the Solid Waste Disposal Act		
Seismic Safety		
Special DOL EEO Clause		
Substance Abuse Requirements		
Termination	✓	>\$10,000
Veterans Hiring Preferences		
Violation and Breach of Contract	✓	>\$100,000

In the clauses listed throughout this document, the referenced “Agency” denotes Lower Savannah Council of Governments.

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, statistics, 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.

AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BOND REQUIREMENTS (CONSTRUCTION BIDS/CONTRACTS)

Bid Guarantee. Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer’s or cashier’s check issued by a responsible bank or trust company, made payable to the Agency. The amount of such guaranty shall be equal to the value or a percentage of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the Agency reserves the right to

reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the undersigned bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand- By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.

5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR §200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all 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 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder or Proposer must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

BYRD ANTI-LOBBYING AGREEMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

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 pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. 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
 - c. 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.

CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

CIVIL RIGHTS LAWS AND REGULATIONS

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, 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.

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

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional

Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$100,000:

Clean Air Act

- (1) 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.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) **The contractor agrees to include these requirements in each subcontract** exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- (1) 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.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) **The contractor agrees to include these requirements in each subcontract** exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.”

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in

the work week.

- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. **The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts.** The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

- a. In accordance with the statute, contractors must be required to pay wages to laborers and

mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

- b. The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FTA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

DEBARMENT AND SUSPENSION

The Contract or Agreement that results from this solicitation will be a covered transaction for the purposes of the following:

- a) Required compliance with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 120. By signing this document, the Contractor testifies it will comply with Federal debarment and suspension requirements and,
- b) The Contractor is aware Lower Savannah Council of Governments is required to review the U.S. GSA “System for Award Management” at <https://www.sam.gov> to check for such suspension and debarment and,
- c) The Contractor will provide for a similar provision of compliance regarding suspension and debarment in each lower tier covered transaction the Contractor may enter into related to this same project, award and/or Agreement.

Please refer to Attachment I

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. This contract will be subject to the requirements of Title 49,

Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. LSCOG has no set contract DBE goal but does expect DBE participation obtained through race-neutral means throughout the period of performance and reporting of such DBE activity for the purpose of SCDOT or federal reporting.

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.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965,

and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FEDERAL CHANGES

49 CFR Part 18 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 Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

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, Agency's, 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 Updated November 2022 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]:
- 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.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within 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 the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Agency 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 Agency, 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 the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in

which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PRE-AWARD AND POST DELIVERY AUDITS OF ROLLING STOCK PURCHASES

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre- award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

PROCUREMENT OF RECOVERED MATERIALS

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.

- (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- a) 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.
- b) 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. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- c) The **Contractor agrees to include this FTA clause 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.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
- 1) Procure or obtain;
 - 2) Extend or renew a contract to procure or obtain; or
 - 3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology

Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c) See Public Law 115-232, section 889 for additional information.

d) See also § 200.471.

PROMPT PAYMENT

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

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

PUBLIC TRANSPORTATION EMPLOYEE PROTECTION ARRANGEMENTS

The Contractor agrees to comply with applicable transit employee protective requirements as follows:

a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the

FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

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.

SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 605, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or

4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

SECTION 6002 OF THE SOLID WASTE DISPOSAL ACT

A non-Federal entity that is a state or agency of a political subdivision of a state and its contractors must comply with section 6002 Solid Waste Disposal Act, as amended by the Resources Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of completion, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.”

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

Applies to construction contracts > \$10,000; This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

SPECIAL DOL EEO CLAUSE

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract

for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's Updated November 2022 essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled,

terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SUBSTANCE ABUSE REQUIREMENTS AND DRUG-FREE WORKPLACE

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

The Contractor agrees to comply with federal substance abuse regulations: “A Drug-Free Workplace.” and USDOT regulations: “Drug-Free Workplace Requirements (Grants),” 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. 8103 et seq., and 2 C.F.R. part 40, 49 U.S.C. chapter 53, 49 C.F.R. Part 655, **AND** the Contractor by signing their original proposal during procurement is self-certifying that the Contractor will comply with all requirements of Section 44-107-10 et seq., relating to the South Carolina Drug Free Workplace Act.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency’s best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

If it is later determined by the Agency 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 Agency, 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.

VETERANS HIRING PREFERENCE

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

VIOLATIONS AND BREACH OF CONTRACT

Every attempt to resolve disputes arising in the performance of this Agreement should be made by both the Agency and the Contractor. The final determination on complaints between the parties will be made in writing by the authorized representative of the Agency; otherwise, all claims, counterclaims, disputes and other matters in question between LSCOG and the Contractor arising out of or relating to this agreement, or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of South Carolina in which the Agency is located. No action or failure to act by the Agency or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

AWARDS EXCEEDING THRESHOLD AMOUNTS

Awards Exceeding \$10,000
Section 6002 of the Solid Waste Disposal Act
Special EEO Provisions for construction contracts
Termination
Awards Exceeding \$25,000
Debarment and Suspension
Awards Exceeding \$100,000
Buy America
Clean Air Act and Federal Water Pollution Control Act
Lobbying

CERTIFICATIONS

Buy America (procurements of steel, iron, manufactured products exceeding \$100,000)
Debarment and Suspension
Lobbying

ATTACHMENT I

Third Party Contractor Certification Regarding Suspension and Debarment
And Lower Tier Covered Transactions

The Agreement now reached between Lower Savannah Council of Governments and the Contractor, if greater in award than \$25,000 utilizing any Federal funding, will be a covered transaction for the purpose of the following:

- 1) Required compliance with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 120. By signing this document the Contractor testifies it will comply with Federal debarment and suspension requirements and,
- 2) The Contractor is aware Lower Savannah Council of Governments is required to review the U.S. GSA "System for Award Management" at <https://www.sam.gov> to check for such suspension and debarment and,
- 3) The Contractor will provide for a similar provision of compliance regarding suspension and debarment in each lower tier covered transaction the Contractor may enter into related to this same project, award and/or Agreement.

Signature

Date

Print Contractor Name / Title

ATTACHMENT II

Certification of Restriction on Lobbying

I,

(Name and title of authorized official)

hereby certify on behalf of _____ that:
(Name of Firm)

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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

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 (11/19/96). 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 Title 2 USC section 1601: et seq.)).

3. The undersigned 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 sub-recipients 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 Title 31 USC Section 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.

Signature of Authorized Representative

Date

Printed Title of Authorized Representative