



REQUEST FOR PROPOSALS

Lowcountry Resilience Review Implementation at Shell Point

RFP#: P105

Proposal Due Date: January 17th, 2023
3:00 P.M.

NOVEMBER 28TH, 2023
LOWCOUNTRY COUNCIL OF GOVERNMENTS
PO Box 98 | 634 Campground Road, Yemassee, SC 29945
www.Lowcountrycog.org

REQEUST FOR PROPOSALS

RFP#: P105

This RFP is available in its entirety in electronic form via the Lowcountry Council of Governments (LCOG) website at www.lowcountrycog.org/solicitations. You are responsible for sending your name, address, email address, and telephone number to the RFP Coordinator for your organization to receive any RFP amendments or bidder questions/agency answers.

You may also obtain a copy of the RFP by submitting a written request to the RFP Coordinator, Stephanie Rossi, Lowcountry Council of Governments, srossi@lowcountrycog.org, Phone: 843-473-3958.

A pre-proposal conference will not be held for this project.

PROJECT TITLE: Request for Proposal for Consultant to Prepare the Lowcountry Safety Action Plan

PROPOSAL DUE DATE...(Opening Date/Time): January 17th 2024, 3:00 pm.

RETURN PROPOSAL TO: RFP Coordinator, Stephanie Rossi, Planning Director, Lowcountry Council of Governments via email at srossi@lowcountrycog.org

EXPECTED TIME PERIOD FOR CONTRACT

February 28th, 2024 to, June 30th, 2025. Lowcountry Council of Governments reserves the right at its discretion to extend the contract up to three additional months.

CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available for work in the Lowcountry COG Region.

MUST BE SIGNED TO BE VALID

By signing this proposal, I certify, that we will comply with all requirements of Section 44-107-10, ET Seq., relating to the S.C. Drug-Free Workplace Act.

AUTHORIZED SIGNATURE		PRINTED NAME		DATE
COMPANY			STATE VENDOR NO. (IF KNOWN)	
MAILING ADDRESS			SOCIAL SECURITY OR FEDERAL TAX NO.	
CITY	STATE	ZIP CODE	PHONE	
EMAIL ADDRESS (Please Provide)			CONTRACT NO.	
ACCEPTED BY STATE OF SOUTH CAROLINA AS FOLLOWS:				
BUYER				DATE

MMO NO. 001 (REV 7/01)

[Contents](#)

PART I: GENERAL INFORMATION 5

PART II: GENERAL INSTRUCTIONS	5
PART III: INTRODUCTION.....	6
Agency Overview.....	6
Purpose of Request:.....	6
Previous Work:.....	8
PART IV: SCOPE OF WORK.....	8
Overview	8
Scope of Work.....	9
Task 1: Project Structure and Work Plan	9
Task 2: Project Management and Coordination	9
Task 3: Stakeholder and Public Engagement Program.	10
Task 4: Stakeholder Tabletop Exercise.....	10
Task 5: Develop Scoping and Design Materials.....	10
Task 6: Cost Estimates for Long Term Lowcountry MIRR Recommendations	13
Task 7: Administrative Draft and Final Plan.	13
Task 8: Executive Summary/Fact Sheet.	13
Task 9: Deliverables.....	13
PART V: EVALUATION AND SELECTION CRITERIA.....	14
PART VI: PERFORMANCE CONDITIONS	15
PART VII: TIMELINE	15
PART VIII: CONTRACTUAL REQUIREMENTS.....	15
PART VIII: SPECIAL INSTRUCTIONS	19

PART I: GENERAL INFORMATION

- A. This project will be administered by the Lowcountry Council of Governments (LCOG) on behalf of the Lowcountry Area Transportation Study the Metropolitan Planning Organization for Beaufort-Bluffton Hilton Head urbanized area as well as the Hampton, Beaufort, Jasper and Colleton Counties and the municipalities within.
- B. The RFP Coordinator is the sole point of contact for this procurement. All communication between the proposer and Lowcountry COG upon receipt of this RFP shall be with the RFP Coordinator Stephanie Rossi, Planning Director, Lowcountry Council of Governments, srossi@lowcountrycog.org, 843-473-3958. Any other communication will be considered unofficial and non-binding on the Lowcountry COG. Consultants are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the proposer.
- C. Proposals will be considered as specified herein or attached hereto under the terms and conditions of this proposal.
- D. Proposals should be prepared simply and economically, providing a straightforward, concise description of OFFEROR's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- E. Proposals must be made in the official name of the firm or individual under which business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the person, partnership, company or corporation submitting the proposal.
- F. Proposals must provide **90 days for acceptance** by the Lowcountry Council of Governments from the due date for receipt of proposals.
- G. OFFERORS are to include all applicable requested information and are encouraged to include any additional information they wish to be considered.
- H. **SUBMISSION OF QUESTIONS:** All questions or request for information must be submitted via email to the RFP Coordinator, Stephanie Rossi, at srossi@lowcountrycog.org and received by, **January 5th, 2024**. After this date no further questions will be addressed. After all responses have been received, a written response will be mailed to all potential OFFERORS.
- I. **ONE (1) DIGITAL COPY OF YOUR PROPOSAL IS REQUIRED.**
- J. Notice of intended award of contract will be posted on the LCOG website at www.lowcountrycog.org. All bidders will be notified via email.

PART II: GENERAL INSTRUCTIONS

Proposals shall include the following information:

- A. Proposals must not be more than the equivalent of 15 single-sided 8 ½ by 11-inch pages in length (not counting the front and back covers of the proposal, section dividers that contain no information or SF 330 forms). The font size should be no smaller than 12 pt.
- B. Name the prime and subconsultants that will comprise the team and identify the Executive Officer of each company.
- C. Identify the proposed Program Manager for the team who will be the sole point of contact for LCOG for day to day operations.
- D. List the key personnel with their office location who will participate in performing the scope of work. Provide a brief résumé for each listed team member. (Including subconsultants' key personnel with their office who will be completing a portion of the scope of work).
- E. Provide an organizational chart depicting the relationships between the team members and agencies.
- F. List three (3) recently performed, relevant projects within the past 5 years that indicate the past performances and abilities of the proposed team. Include a key client contact person for each project with their current daytime phone number.
- G. Provide a proposed list of required tasks and milestones to address the provided scope of work.
- H. Provide a proposed project schedule that includes the key task activities, duration, milestones and deliverables that will complete the scope of work in the shortest time frame that is responsive to the required review.
- I. Provide a flow chart depicting key task activities and sequence.
- J. Provide Standard Federal Form 330 for the prime consultant and all subconsultants.

Unless stated otherwise herein, the basic and governing language of the contract resulting from this solicitation shall be comprised of the RFP documents, including any attachments and amendments, and the successful OFFEROR's signed proposal. In the event of a conflict between the two documents, the RFP shall govern.

PART III: INTRODUCTION

Agency Overview

The Lowcountry Council of Governments (LCOG) serves as the Council of Governments (COG) for Hampton, Colleton, Jasper and Beaufort Counties. LCOG is a regional government agency working with local governments to identify and coordinate regional transportation planning, regional development, strengthen services, and garner cooperation for the mutual benefit to best serve our citizens. LCOG has a history of working cooperatively with our local governments and military installations in the region to complete a Joint Land Use Study, Sea level Rise Report and most recently the [Military Instantly Resilience Review \(MIRR\)](#).

Purpose of Request:

Although it may not be possible to contain natural disasters and long-term conditions such as sea level rise, it is possible to plan and make changes in physical structures and procedures to safely accommodate and prevent damage, and the potential loss of mission.

This project carries out the implementation plan of the Lowcountry MIRR by moving forward the short-term recommendations in the scoping and design phase. This will allow for a more streamline process for moving to construction and seeking funds. This project focuses on the near-term recommendations and will lay out a phasing approach as determined appropriate by the result of the analysis and field work.

The primary goal is to provide scoping and design for the top-ranking pilot project identified in the Lowcountry Military Installation Resilience Review (MIRR). The project will focus on the shoreline at the interchange of US 21 at Parris Island Gateway/Ribaut Road and Malecon Drive hereby referred to as the *Shell Point Interchange*. The Shell Point Interchange serves nearby neighborhoods and the land entrance to Parris Island. The interchange also serves as a major US highway and designated critical evacuation and access route for both the installation and the community. This site corresponds with the South Carolina Coastal Conservation League living shoreline project funded through the National Coastal Resilience Fund administered by the National Fish and Wildlife Foundation. The two efforts will be coordinated to build off of each other.

Carrying the top-ranking project through scoping and design will help to ensure the implementation of the recommendations of the Lowcountry MIRR which ensure that MCAS Beaufort and MCRD Parris Island are able to continue their operations successfully, while dealing with the environmental changes in the community and area surrounding the two military facilities. The area's communities and the military installations have long had a good working relationship. Working together to find solutions for conditions facing all individuals and organizations in both the public and the private sectors, this project will provide opportunities to continue to strengthen those bonds.

The Marine Corps Air Station (MCAS) and the Marine Corps Recruit Depot (MCRD) installations are located within Beaufort County, South Carolina. Since 1915, the primary mission of MCRD Parris Island has been to train Marines as the only Recruit Depot on the East Coast. MCRD Parris Island is 8,095 acres in size, with approximately 4,833 acres of salt marsh and is completely bounded by bodies of water and wetlands with access to the mainland provided by a causeway. MCAS Beaufort hosts all east coast-based Marine Corps F/A-18 squadrons as well as the only F-35B training squadron in the United States, serving as the operational base for Marine Aircraft Group 31 (MAG-31). MAG-31 is composed of five F/A-18 Hornet squadrons and one F-35B training squadron.

Recent and forecasted future meteorological and climatological conditions and changes have impacted the Lowcountry Region during the past decade and are expected to continue to do so into the foreseeable future. Consequently, the strategic locational advantages that led to locating and maintaining both MCAS Beaufort and MCRD Parris Island in Beaufort County have the potential to endanger the missions and operations of the two facilities in the next decade. Conscious planning to accommodate these changes is needed.

The Lowcountry MIRR prioritized the Shell Point project due to the number of threats affecting it based on its location near the coast and is subject to high levels of erosion and compound flooding, including pluvial flooding, storm surge inundation, and shallow coastal flooding. Vulnerabilities that could occur in the future because of increased threats include:

- Disrupted roadways
 - Interruption or slowdowns in emergency and recovery response
 - Limited access to hospitals
 - Decreased access for customers and employees (incl. government/military)
 - Disruption on evacuation routes
- Marsh and habitat loss
- Water quality impacts
- Erosion and land loss
- Constrained livability
- Reduced tourism

Completion of the scoping and design are key components to implementing mitigation strategies at the interchange. This will allow for local municipalities to move forward with final construction.

Previous Work:

Previous work for reference can be found on the Lowcountry Council of Government website:

- [Lowcountry Military Installation Resilience Review](#)
- [Natural Hazard Mitigation Planning](#)
- [Beaufort Joint Land Use Study: Sea Level Rise and Infrastructure](#)

PART IV: SCOPE OF WORK

Overview

The Lowcountry MIRR Shell Point recommendations seek to improve local ecosystem services and maintain integration of physical, economic, community, and natural infrastructure. The Shell Point Interchange implementation recommendation goals are divided into four categories including shoreline stabilization, habitat restoration, flood management, and water quality.

- Shoreline Stabilization would mitigate the eroding edge of marsh, mitigate impacts of flooding, enhance stormwater storage and treatment to improve water quality in the local estuarine ecosystem, preserve coastal habitat, and improve both emergency and day-to-day ingress/egress. Treatment would include mitigating the eroding edge of marsh and promote natural resilience of marsh to risks associated with tides, storms, and sea level rise.
- Habitat Restoration would preserve, enhance, and restore coastal habitat that will be resilient to future stressors associated with storms and sea level rise. Treatment could include enhancing the marsh habitat to improve ecological value and quality.
- Flood Management would reduce impacts of flooding by capturing and slowing stormwater. Mitigation would balance stormwater storage with tidal fluxes and future scenarios of sea level rise and treat stormwater runoff before it mixes with tidal waters. Treatment would include restoring inland marsh as stormwater marsh to temporarily store flooding stormwater.
- Water Quality would address water quality issues by 1) treating stormwater runoff before it mixes with tidal waters and 2) improving ecosystem service of the estuarine system. Mitigation would include vegetated filter strip surrounding inland marsh to trap runoff pollutants from

entering the marsh.

Scope of Work

A detailed scope for each component is detailed below. Specific tasks and expected deliverables that are to be generated from this project shall include but not be limited to what is discussed below.

Task 1: Project Structure and Work Plan

Building on the scope of work presented in their proposal, and incorporating any relevant changes made during contract negotiations, the consultant will prepare a detailed work plan and the achievable timeline for the Plan. The work plan will outline the overall approach, as well as specific actions and activities that will occur during the project and how these will result in a successful conclusion to the study. The project team will make any necessary refinements to the Work Plan and administration of the study to ensure coordination with the project sponsor and committees.

Task 2: Project Management and Coordination

The consultant will identify a project lead from their team to act as the direct point of contact for LCOG's project manager. The Consultant point of contact (POC) will coordinate all communication. Information concerning the study, including progress reports, meeting agendas and materials, presentations, and draft and final reports will be provided to the LCOG prior to committee review and prior to public release. The consultant shall be required to manage the study and coordination with any subconsultants, as well as bear responsibility for all documentation and equipment needs.

This task will also include regular progress meetings with LCOG staff, the preparation of monthly progress reports, documentation of travel and expense receipts, and the preparation and submission of invoices. When submitting progress reports, the consultant will be required to outline the following:

- Performed work;
- Upcoming tasks or milestones;
- Status of scope and schedule; and
- Any issues to be aware of.

Development of the Plan will be guided by a policy level Steering Committee, which will provide policy level oversight. A Technical Committee will also be created and input into study assessments, analyses, policies, and recommendations for the Steering Committee approval. Meetings can be virtual or in person (either in person or virtual). The consultant shall be responsible for the preparation and coordination of all data collection, data analysis, technical memorandum, and draft documents.

LCOG staff shall be responsible for coordinating and scheduling committee meetings and assisting the consultant in developing agendas. The consultant will be expected to work closely

with LCOG on the coordination and distribution of materials to the committees as applicable to consultant work tasks, as well as be responsible for the recording of meeting minutes.

The Steering and Technical Committees should be comprised at a minimum of representatives from Beaufort County, the City of Beaufort, the Town of Port Royal, MCAS Beaufort and MCRD Parris Island. Other entities may include SCDNR, SCDOT and other non-governmental interest groups.

Task 3: Stakeholder and Public Engagement Program.

The consultant will develop and implement a detailed stakeholder and public engagement program that seeks to gain authentic and meaningful public input from community members. At minimum, the stakeholder and public engagement program should address the following:

- Identification of, and engagement activities for, key communities that may be disproportionately impacted by traffic risks and traditionally underserved by safety efforts;
- Specific activities for reaching identified stakeholder groups and engagement strategies that inform, involve, and empower stakeholders and the public;
- Examination of perceived safety culture and concerns in the region.
- Timeline for stakeholder and public engagement activities;
- Communication methods for sharing information with residents and community members; and
- Strategy for effective and consistent messaging.

Task 4: Stakeholder Tabletop Exercise

The Project Team will facilitate a threat-based exercise that will examine impacts to infrastructure such as transportation networks and potable water supply and consider how these changes impact the ability of DOD personnel to find affordable housing as well as impacts to their ability to get to positions on the base from residences off base. The goal is to validate that the response action on and off the base are able to be carried out effectively and to identify gaps in execution to be amended. The final scope of the Tabletop Exercises can be determined with the guidance of the Steering and Technical Committees. The selected consultant will develop the interactive exercise and lead those participants through the scenario of events that will educate participants in the intersection of emergency management and military installation resiliency. Finally, the consultant will produce educational materials based on the tabletop exercise for further outreach to elected officials.

Task 5: Develop Scoping and Design Materials

Develop Scoping and Design materials for Shoreline Stabilization, Habitat Restoration, Flood Management and Water Quality mitigation strategies. This task would be conducted by a technical consultant team which will result in 60% design and permitting documents.

Subtask 5.1: Data Collection and Desktop Analysis

- Review existing data and models
- Evaluate existing LIDAR, DEM, and other available topographic and bathymetric data
- Analyze existing water quality data related to salinity, nutrients, and other parameters
- Analyze existing hydrodynamic data related to tidal ranges, waves, and currents

- Characterize tidal fluxes based on available data
- Characterize contributing drainage area
- Perform environmental site assessment
- Perform site topographic survey.
- Field Reconnaissance
 - Conduct site visit to evaluate existing conditions related to escarpment, vegetation composition, sediment composition, and oyster viability.
 - Collect and analyze sediment samples.
 - Photo documentation
 - Prepare a site assessment report summarizing desktop analysis and field reconnaissance.
 - Install groundwater monitoring wells if needed.

Subtask 5.2: Develop Selection Criteria

- Using South Carolina Department of Natural Resources criteria for living shorelines as a guide, develop a selection criteria tool for nature-based shoreline stabilization strategies.
- Coordinate selection criteria with stakeholders (DNR, military, COG, etc.).

Subtask 5.3: Alternative Analysis

- Develop supplemental models and analyze results
 - Modeling will focus on waves, currents, shears, tides, and sea level rise at the site to better understand hydrodynamics and sediment dynamics.
- Develop up to three (3) alternatives
 - Nature-based shoreline stabilization strategies (e.g., regrading, coir fiber matting, bagged shells, reef balls, marsh restoration, thin layer placement).
 - Stormwater management enhancements at the site focused on balancing upland stormwater management with interactions with tides and sea level rise (up to 3 scenarios).
- Evaluate alternatives based on project goals, cost/benefit analysis, and previously identified criteria.
- Perform preliminary drainage analyses and computations necessary to characterize alternative benefits.
- Coordinate alternatives analysis with stakeholders (DNR, military, COG, etc.) and select preferred alternative to advance to design.
- Prepare an Alternative Analysis report summarizing evaluation and alternatives and community input and section of preferred alternative.

Subtask 5.4: 60% Design Documents

- Conduct pre-design activities as necessary such as geotechnical investigations, topographic and bathymetric survey, and fauna surveys.
- Perform detailed hydrologic and hydraulic analysis.
- Prepare 60% design drawings that will be suitable for permitting. Sheets anticipated to be included as appropriate in 60% drawings include:
 - Existing conditions
 - Sediment and erosion control plan

- Sediment and erosion control details
- Proposed grading and restoration activities
- Restoration design details
- Planting plan
- Planting details
- Planting schedule
- Existing Hydrologic Conditions
- Proposed Hydrologic Conditions
- SLR considerations
- Grading and Drainage Plans
- Sediment and erosion control plan
- Sediment and erosion control details
- Proposed grading and restoration activities
- Prepare basis of design report summarizing Task 5 and describing basis for design approach.
- Prepare draft special provisions specifications.
- Prepare engineer's opinion of probable construction cost.
- 60% design package that is suitable for permitting including: design drawings, basis of design report, draft special provisions specifications, and engineer's opinion of probable construction cost.

Subtask 5.5: Permitting

- Hold pre-permitting meeting with regulators such as SCDOT, SCDEHC, USACE, and local officials.
- Complete permit applications with associated forms and supporting material (environmental reports, analyses, design drawings). Scope assumes permitting with USACE, SCDEHC, and local regulators. Additional agency coordination may require additional scope and fee.
- Requirements for additional study such as SAV survey, rare plant survey, etc. may require additional scope and fee.
- Respond to regulators' comments. It is assumed that there will be one round of comments and revisions. Additional rounds of comments and revisions may require additional scope and fee.
- Prepare all permit applications and subsequent responses to regulator feedback.

Subtask 5.6: Final Design Documents

- Incorporate comments from stakeholders and regulators from 60% design package
- Prepare final design drawings. It is anticipated that the drawing sheets will include as appropriate:
 - Existing conditions
 - Sediment and erosion control plan
 - Sediment and erosion control details
 - Proposed grading and restoration activities
 - Restoration design details
 - Planting plan
 - Planting details

- Planting schedule
 - Hydrology Report
 - DOT plans/exhibits
 - Grading and drainage plans
 - Sediment and erosion control plan
 - Sediment and erosion control details
 - Pipe Profiles
 - Site Plans
 - Utility Plans
 - Details
- Develop technical specifications (i.e., special provisions) for nature-based shoreline protection approach (assumed that client will provide general contract specifications and associated bid documents).
 - Develop engineer's estimate of construction cost.
 - Design drawings for flood mitigation and water quality component of the project, signed and sealed by a SC licensed Professional Engineer as needed.
 - Technical specifications for flood mitigation and water quality measures – includes only special provisions and does not include general contract specifications.

Task 6: Cost Estimates for Long Term Lowcountry MIRR Recommendations

The Lowcountry MIRR recommended a tide gate and breakwater as possible long term mitigation strategies. The Consultant will prepare a technical memorandum based on data collected on potential construction and maintenance cost of pursuing long term strategies in the future.

Task 7: Administrative Draft and Final Plan.

The consultant will prepare an administrative draft of the Plan for review and comment by the committees. This draft is to be provided as an electronic PDF. Comments received from the committees will be incorporated into the final plan.

Upon final review and consent by the Steering Committee, the consultant will develop a final report that is visually appealing, easy for policymakers and stakeholders to understand, and communicates action plan strategies and recommendations. The report should be able to be used both digitally and in hard copy format.

The consultant shall provide LCOG with appropriate presentation materials for final review and approval of the Plan by LCOG, LATS and other individual jurisdictions as appropriate.

Task 8: Executive Summary/Fact Sheet.

Upon completion of the Plan, the consultant shall develop a brief executive summary or fact sheet in PDF format which relays all pertinent information in an easy-to-follow format. The summary should be concise and highly graphic, highlighting major assumptions, strategies, and recommendations.

Task 9: Deliverables.

Upon final project completion, the consultant will be responsible for providing a high-resolution document in PDF format. The consultant is also expected to provide LCOG with all data and study products. All meeting summaries and technical analyses should be included as an appendix of the study. Upon the completion of the project, all maps (including GIS shape files), data, and report shall be the property of the project sponsor and provided in both paper and electronic formats.

PART V: EVALUATION AND SELECTION CRITERIA

Proposals will be distributed to the LATS Technical Committee and evaluated against the following criteria. Each of the identified criteria has an assigned weight (whole numbers between 1 and 100) that is used to establish their relative importance in the evaluation process.

Criteria	Maximum Points
Method of Approach: This refers to the technical soundness of the consultant’s stated approach to the project, the comprehensiveness of the proposed approach, and the techniques to be used.	20%
Originality and innovativeness: A key factor in the selection of the firm is any innovative approach to the project that goes beyond the suggested Scope of Work, design, functionality, interactivity, etc. It must be shown how this will be accomplished within the time limits.	20%
Understanding of Purpose: A determination will be made of the consultant’s understanding of the purpose and tasks as presented in the RFP. Familiarity with local, regional and SCDOT studies and documents of multimodal transportation opportunities and obstacles. Evaluation will be based on the information presented in the consultant’s proposal, the allocation of time on specific tasks. Consultants should feel free to suggest other requirements, problems, and solutions that may have been overlooked.	25%
Capability and Qualifications: The ability of a prospective consultant will be evaluated under the terms of the RFP, relative to having a staff with the qualifications needed to successfully complete the project. Qualifications of professional personnel assigned to the project will be measured by both education and experience, and with reference to experience on similar projects. The consultant’s professional and project staff that work on the project must be the same staff that is identified in the proposal.	25%

Schedule: The prospective consultant will be evaluated on their ability to follow a schedule that will successfully complete the project within a reasonable time frame.	10%
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PART VI: PERFORMANCE CONDITIONS

- A. The Contract shall be on the basis of a **fixed fee** with a Contract **maximum**.
- B. The contractor shall be required to assume sole responsibility for the complete effort as required by this RFP. LCOG/LATS will consider the contractor to be the sole point of contact with regard to contractual matters.
- C. **Timing.** The consultant shall complete the project and provide deliverables by June 28th, 2025.

PART VII: TIMELINE

Approximate RFP timeline for solicitation and award of contract.

Procurement Step	Date
RFP Release Date	November 28 th , 2023
RFP Advertised	November 28th, 2023
Deadline for Questions	December 15th, 2023
Deadline for submission of proposals	January 17 th , 2024
Evaluate Proposals	1/17/24 to 2/9/24
Technical Interviews (if needed)	2/9/24 to 2/16/24
Consultant Selection/Notification	2/16/24 to 2/21/2024
Contract Award Date	Late February
Notice to Proceed	Late February
Contract Completion	June 28 th , 2025

PART VIII: CONTRACTUAL REQUIREMENTS

- 1) **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 Governments 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 the default of a subcontractor, and if such default arises out of 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 the required delivery schedule.

- 2) GOVERNING LAW: Contractor consents to be governed by Section 11-35-4230 of the South Carolina Code of Laws and agrees that Section 11-35-4230 applies to and governs the Agreement. Contractor waives any objection it may have now or hereafter to the administrative process required by Section 11-35-4230. To the extent that Section 11-35-4230, by its own terms, does not govern a claim or controversy arising out of or relating to the Agreement, Contractor agrees that any suit, action or proceeding arising out of or relating to the Agreement shall be instituted and maintained only in a state or federal court located in Beaufort County, State of South Carolina. Notwithstanding any other agreement between Contractor and the State, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of or relating to the Agreement shall be governed by the laws of the State of South Carolina. Contractor agrees that any act by the State regarding the Agreement is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by this solicitation. As used in this paragraph, the phrase "the State" includes any governmental entity transacting business with Contractor pursuant to the Agreement and the South Carolina Budget & Control Board.
- 3) OFFEROR'S QUALIFICATION: OFFEROR must, upon request of LCOG, furnish satisfactory evidence of its ability to furnish products or services in accordance with the terms and conditions of this proposal. The Planning Department reserves the right to make the final determination as to the OFFEROR's ability to provide the services requested herein.
- 4) OFFEROR RESPONSIBILITY: Each OFFEROR shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this proposal. It is expected that this will sometimes require on-site observation. The failure or omission of an OFFEROR to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this proposal or to the contract.
- 5) AFFIRMATIVE ACTION: The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees, without regard or

discrimination by reason of race, color, religion, sex, national origin or physical handicap. The following are incorporated herein by reference: 41 C.F.R. 60-1.4, 60-250.4 and 60-741-4.

- 6) TERMINATION: Subject to the Provisions below, any contract resulting from this proposal may be terminated by the Lowcountry Council of Governments, provided a thirty (30) days advance notice in writing is given to the contractor.
 - a) Non-Appropriations: Funds for this contract are payable from State and/or Federal and/or Lowcountry Council of Governments appropriations. In the event sufficient appropriations are not made to pay the charges under the contract it shall terminate without any obligation to the Lowcountry Council of Governments
 - i) Convenience: In the event that this contract is terminated or canceled upon request and for the convenience of the Lowcountry Council of Governments without the required thirty (30) days advance written notice, then the Lowcountry Council of Governments shall negotiate reasonable termination costs, if applicable.
 - ii) Cause: Lowcountry Council of Governments for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provisions; termination costs, if any shall not apply. The thirty (30) days advance notice requirement is waived and the default provision listed herein shall apply.
 - (a) Default: In case of default on contractor, the Lowcountry Council of Governments reserves the right to purchase any or all items/services in default in open market, charging contractor with any excessive costs. SHOULD SUCH CHARGE BE ASSESSED, NO SUBSEQUENT PROPOSALS OF THE DEFAULTING CONTRACTOR WILL BE CONSIDERED UNTIL THE ASSESSED CHARGE HAS BEEN SATISFIED.
- 7) PRIME CONTRACTOR RESPONSIBILITIES: The contractor will be required to assume sole responsibility for the complete effort as required by this RFP. Lowcountry Council of Governments/Lowcountry Area Transportation Study will consider the contractor to be the sole point of contact with regard to contractual matters.
- 8) SUBCONTRACTING: If any part of the work covered by this RFP is to be subcontracted, the contractor shall identify the subcontracting organization and the contractual arrangements made therewith. All subcontractors must be approved by the Lowcountry Council of Governments/Lowcountry Area Transportation Study. The successful OFFEROR will also furnish the corporate or company name and the names of the officers of any subcontractors engaged by the OFFEROR.

- 9) OWNERSHIP OF MATERIAL: Ownership of all data, material and documentation originated and prepared for the Lowcountry Council of Governments/Lowcountry Area Transportation Study pursuant to this contract shall belong to the Lowcountry Council of Governments/Lowcountry Area Transportation Study, FHWA/FTA, and SCDOT.
- 10) LEGAL OR CONSULTANT SERVICES: If this contract is for legal or consultant services, it is subject to the provisions of Section 11-9-105 of the 1976 Code of Laws of South Carolina as amended. "Any contract for legal or consultant services entered into by a state agency or institution shall include a provision which requires completion of all services. The Provisions shall further require that in the event all services are not fully rendered as provided for in the contract, any Monies which have been paid by the agency under the contract must be refunded to the agency along with a twelve (12) percent penalty".
- 11) INDEMNIFICATION: The Lowcountry Council of Governments, its officers, agents, and employees, shall be held harmless from liability from any claims, damages and actions of any nature arising from the negligent performance by OFFEROR of a resultant contract, provided that such liability is not attributable to negligence on the part of the using agency or failure of the using agency to comply with the offer as outlined in the OFFEROR's proposal.
- 12) COMPLIANCE WITH FEDERAL REQUIREMENTS: State or Federal requirements that are more restrictive shall be followed.
- 13) CONTRACT FORMAT: When applicable, the contractor shall also be required to abide by all the covenants, conditions, responsibilities, terms and stipulations as set forth in the contract format (attachment and accompanying schedules). Said contract format is subject to change prior to final execution of any contract which is awarded subsequent to this Request for Proposal.
- 14) DRUG-FREE WORKPLACE: (Note: This clause applies to any resultant contract of \$50,000 or more). The State of South Carolina has amended Title 44, code of Laws of South Carolina, 1976, relating to health, by adding Chapter 107, so as to enact the Drug-Free Workplace Act. (See Act No. 593, 1990 Acts and Joint Resolutions). By submission of a signed proposal, you are certifying that you will comply with this Act. (See Section 44-107-30). This will certify to the using agency your compliance.
- 15) PURCHASING LIABILITY: The Planning Department of the Lowcountry Council of Governments is acting under the authority given to it in the Consolidated Procurement Code to procure contracts on behalf of governmental agencies and acts only as their agent in this respect. The resulting contract is between the Lowcountry Council of Governments

and the successful OFFEROR and the Planning Department bears no liability for any damages that any party may incur in the execution or enforcement of the contract.

- 16) CONTRACT AMENDMENTS: Amendments to any contract between the agency and the contractor must be reviewed and approved by the Lowcountry Council of Governments.
- 17) ASSIGNMENT: No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Lowcountry Council of Governments.
- 18) RECORDS RETENTION & RIGHT TO AUDIT: The State shall have the right to audit the books and records of the contractor as they pertain to this contract, both independent of, and pursuant to, S.C. Code Section 11-35-2220. Such books and records shall be maintained for a period of three (3) years from the date of final payment under the contract.
 - i) The State may conduct, or have conducted, performance audits of the contractor. The State may conduct, or have conducted, audits of specific requirements of this bid as determined necessary by the State.
 - ii) Pertaining to all audits, contractor shall make available to the State access to its computer files containing the history of contract performance and all other documents related to the audit. Additionally, any software used by the contractor shall be made available for auditing purposes at no cost to the State.

PART VIII: SPECIAL INSTRUCTIONS

- 1) INTENT TO PERFORM: It is the intent and purpose that this request permits competition. It shall be the OFFEROR's responsibility to advise the Planning Department of the Lowcountry Council of Governments if any language, requirements, etc., or any combinations thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification must be submitted in writing, and must be received by the Planning Department of the Lowcountry Council of Governments within fifteen (15) days of the date of issue. A review of such notifications will be made.
- 2) RECEIPT OF PROPOSAL: State law requires that a copy of the proposal be submitted no later than the date and time specified in the Request for Proposal.
- 3) PREPARATION OF PROPOSAL:
 - i) All proposals should be complete and carefully worded and must convey all of the information requested by the Lowcountry Council of Governments. If significant errors are found in the OFFEROR's proposal, or if the proposal fails to conform to the essential requirements of the RFP, the Lowcountry Council of Governments and the Lowcountry Council of Governments alone, will be the judge as to whether that variance is significant enough to reject the proposal.

- ii) Proposals should be prepared ***simply and economically***, providing a straightforward, ***concise*** description of OFFEROR's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
 - iii) Proposals should be submitted via email to Stephanie Rossi, srossi@lowcountrycog.org. No hard copy of the proposal is required.
 - iv) If your proposal includes any comment over and above the specific information requested in our Request for Proposal, you are to include this information as a separate appendix to your proposal.
- 4) **DISCUSSION/NEGOTIATION:** By submission of a proposal, OFFEROR agrees that during the period following issuance of a proposal and prior to final award of contract, OFFEROR **shall not** discuss this Procurement with any party except RFP Coordinator designated in this solicitation. OFFEROR shall not attempt to discuss with or attempt to negotiate with the using Agency any aspect of the procurement without prior approval of the Planning Director.
- 5) **AMENDMENTS:**
 - i) **5.1 VERBAL COMMENTS OR DISCUSSIONS BY THE LCOG RELATIVE TO THIS SOLICITATION CANNOT ADD, DELETE OR MODIFY ANY WRITTEN PROVISION. ANY ALTERATION MUST BE IN THE FORM OF A WRITTEN AMENDMENT TO ALL OFFEROR'S.**
 - ii) 5.2 If it becomes necessary to revise any part of the RFP, an amendment will be provided to all eligible OFFERORS.
- 6) **ORAL PRESENTATIONS:** OFFERORS may be requested to make oral presentations of their proposals to Lowcountry Council of Governments/Lowcountry Area Transportation Study. Such presentations provide an opportunity for the OFFERORS to clarify their proposals and to ensure a thorough understanding.
- 7) **FUNDING:** The OFFEROR shall agree that funds expended for the purposes of the contract must be appropriated by the Lowcountry Council of Governments included within the contract period. Therefore, the contract shall automatically terminate without penalty or termination costs if such funds are not appropriated. In the event that funds are not appropriated for the contract, the OFFEROR shall not prohibit or otherwise limit the Agency's right to pursue and contract for alternate solutions and remedies as deemed necessary by the Agency for the conduct of its affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the contract.
- 8) **AWARD:** An award resulting from this request shall be awarded to the responsive and responsible OFFEROR(s) whose proposal is determined to be most advantageous to the Lowcountry Council of Governments, taking into consideration price, when required, and the evaluation factors set forth herein; however, the right is reserved to reject any and all proposals received and in all cases, the Lowcountry Council of Governments will be the sole judge as to whether an OFFEROR's proposal has or has not satisfactorily met the requirements of this RFP.

9) SUBMITTING CONFIDENTIAL INFORMATION:

- a. OVERVIEW / APPLICABLE STATUTES: Under the South Carolina Freedom of Information Act ("FOIA"), certain documents an OFFEROR submits to the LCOG may be subject to public disclosure. All references are to the South Carolina Code of Laws, which is available on the Internet at: <http://www.lpittr.state.sc.us/code/statmast.htm>. OFFERORS are urged to become familiar with FOIA (Title 30, Chapter 4 of the Code), the Trade Secrets Act (Title 39, Chapter 8), and the Consolidated Procurement Code (Title 11, Chapter 35). Section 11-35-410 of the Procurement Code exempts certain procurement information from release under FOIA: "[C]ommercial or financial information obtained in response to a 'Request for Proposals' or any type of bid solicitation which is privileged and confidential need not be disclosed. Privileged and confidential information is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information. Examples of this type of information would include: (1) customer lists; (2) design recommendations and identifications of prospective problem areas under an RFP; (3) design concepts, including methods and procedures; (4) biographical data on key employees of the bidder."
- b. INSTRUCTIONS: In determining whether to release documents, the LCOG will detrimentally rely on OFFEROR's marking of documents, as required by these bidding instructions, as being either "CONFIDENTIAL" or "TRADE SECRET". For every document OFFEROR submits in response to or with regard to this solicitation, OFFEROR must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that OFFEROR contend contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document OFFEROR submits in response to or with regard to this solicitation, OFFEROR must separately mark with the words "TRADE SECRET" every page, or portion thereof, that OFFEROR contends contains a trade secret as that term is defined by the Trade Secrets Act. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. If a portion of a bid or proposal is improperly marked as confidential or trade secret, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are protected, do not mark the entire page.
- c. CONSENT TO RELEASE: By submitting a bid or proposal, OFFEROR (1) consents to the release of documents governed by section 11-35-1810 unless OFFEROR conspicuously states otherwise on the cover of its bid or proposal, (2) agrees to the public disclosure of any documents regarding this solicitation submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a bid or proposal, documents submitted to clarify either a bid or proposal, and documents submitted during negotiations), unless the document is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL", (3) agrees that any information not marked, as required by these bidding instructions, as a "TRADE SECRET" is not a trade secret as defined by the Trade Secrets Act, and (4) that, notwithstanding any claims or markings otherwise, any prices used to determine the award are subject to public disclosure. By submitting a bid or proposal, OFFEROR agrees to defend, indemnify and hold

harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that OFFEROR marked as "CONFIDENTIAL" or "TRADE SECRET".

- 10) RIGHT OF NON/COMMITMENT OR REJECTION: This solicitation does not commit Lowcountry Council of Governments/Lowcountry Area Transportation Study to award a contract, to pay any costs incurred in the preparation of a proposal, or to procure or contract for the articles of goods or services. Lowcountry Council of Governments/Lowcountry Area Transportation Study reserves the right to accept or reject any or all proposals received as a result of this request, or to cancel in part or in its entirety this proposal if it is in its best interest to do so.
- 11) RIGHT TO PROTEST: Any OFFEROR desiring to exercise rights under Section 11-35-4210 (Right to Protest) of the South Carolina Consolidated Procurement code should direct all correspondence to Executive Director, Lowcountry Council of Governments, PO Box 98, Yemassee, SC 29945.
- 12) UNSUCCESSFUL OFFERORS: OFFERORS not awarded a contract under this solicitation, may request return of their proposals within thirty (30) days after notification of award is emailed.
- 13) DISCUSSION WITH RESPONSIVE OFFERORS: Discussions may be conducted with responsive OFFERORS who submit proposals for the purpose of clarification to assure full understanding of the requirements of the request for proposals. All OFFERORS, whose proposals, in the procuring agency's sole judgment, needing clarification shall be accorded such an opportunity.
- 14) PAYMENT FOR GOODS & SERVICES: Payment for goods & services received by the Lowcountry Council of Governments shall be processed in accordance with Section 11-35-45 of the South Carolina Procurement Code.

IMPORTANT NOTICE

APPLIES TO NONRESIDENTS ONLY

BIDDER/OFFEROR:

S.C. WITHHOLDING TAX AMENDMENTS

CODE SECTION 12-9-310(A)(2)(3)

Effective July 1, 1994, Section 49, Appropriations Bill, Part II Amended The Above-Referenced Code Section To Eliminate Withholding From Payments To Nonresident Contractors And Rental Recipients If The Nonresident Is Registered Or Registers With The S.C. Department Of Revenue or The S.C. Secretary of State's Office. The Nonresident Must Provide An Affidavit To Whomever They Are Contracting With To That Effect.

The Affidavit Will Be Retained By The Entity Or Person Letting The Contract To The Nonresident. In The Absence of an Affidavit Being Provided, Withholding Will Be Required (Contracts--2%, Rental Or Royalty Recipients--7% For Corporations, Or 5% For Individuals And Partnerships).

The Filing Of The Affidavit Affirming Registration By The Nonresident Eliminates The Requirement To Withhold By Those Letting Contracts To Nonresident As Well As The Posting Of The Surety Bond By The Non Resident. Enclosed Is An Affidavit And Instructions To Be Used When Contracting With Nonresidents.

Forms To Register For All Taxes Administered By The South Carolina Department Of Revenue May Be Obtained By Calling The License And Registration Section At **803 898-5872** Or Writing The S.C. Department Of Revenue, Registration Unit, Columbia, S.C. 29214-0140.

Instructions - Nonresident Taxpayer Registration Affidavit

Requirements To Make Withholding Payments: Code Section 12-9-310 (A) (3) Requires Persons Hiring Or Contracting With A Nonresident Taxpayer To Withhold 2% Of Each Payment Made To The Nonresident Where The Payments Under The Contract Exceed \$10,000.00 In Any One Calendar Year.

Code Section 12-9-310 (A)(2) Requires Persons Making Payment To A Nonresident Taxpayer Of Rentals Or Royalties At A Rate Of \$1,200.00 Or More A Year For The Use Of Or For The Privilege Of Using Property In South Carolina To Withhold 7% Of The Total Of Each Payment Made To A Nonresident Taxpayer Who Is Not A Corporation And 5% If The Payment Is Made To A Corporation.

Purpose Of Affidavit: A Person Is Not Required To Withhold Taxes With Regard To Any Nonresident Taxpayer Who Submits An Affidavit Certifying That It Is Registered With The South Carolina Secretary Of State Or The South Carolina Department Of Revenue.

Term And Duration Of Affidavit: It Is Recommended That An Affidavit Be Obtained From A Nonresident Taxpayer For Each Separate Contract Or Agreement. Otherwise, The Affidavit Submitted By A Nonresident Tax Payer Shall Remain In Effect For A Period Of Three (3) Years, Or For A Lesser Time If The Person Earlier Receives Notice Of Revocation Of Exemption From Withholding From The S.C. Department Of Revenue.

STATE OF SOUTH CAROLINA, DEPARTMENT OF REVENUE (I-312)

THIS AFFIDAVIT APPLIES TO NONRESIDENTS ONLY

Nonresident Taxpayer Registration Affidavit, Income Tax Withholding
The Undersigned Nonresident Taxpayer On Oath, Being First Duly Sworn, Hereby Certifies As Follows:

1. Owner, Partner(s) Or Corporate Name Of Nonresident Taxpayer:

2. Trade Name (Doing Business as): _____

3. Mailing Address: _____

4. Federal Identification Number: _____

5. _____ Hiring Or Contracting With:
Name: _____
Address: _____

_____ Receiving Rentals Or Royalties From:
Name: _____
Address: _____

6. I Certify That The Above Named Nonresident Taxpayer Is Currently Registered With:

(Check Appropriate Box):

() The South Carolina Secretary Of State Or

() The South Carolina Department Of Revenue

Date Of

Registration _____

7. I Understand That By This Registration, The Above Named Nonresident Taxpayer Has Agreed To Be Subject To The Jurisdiction Of The S.C. Department Of Revenue And The Courts Of South Carolina To Determine Its South Carolina Tax Liability, Including Estimated Taxes, Together With Any Related Interest And Penalties.

8. I Understand The South Carolina Department Of Revenue May Revoke The Withholding Exemption Granted Under Code Section 12-9-310 At Any Time It Determines That The Above Named Nonresident Taxpayer Is Not Cooperating With The Department In The Determination Of Its Correct South Carolina Tax Liability.

The Undersigned Understands That Any False Statement Contained Herein Could Be Punished By Fine, Imprisonment Or Both.

(Signature Of Owner, Partner Or Corporate Officer) (Seal)
Date

If Corporate Officer State

Title: _____

(Name - Please Print)