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## REQUEST FOR PROPOSALS

### Planning Palmetto Breeze service for the Hilton Head Island Airport

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RFP#: P102

Proposal Due Date: December 17, 2021  
3:00 P.M.

NOVEMBER 18, 2021  
Palmetto Breeze Transit  
P. O. Box 2029/25 Benton Field Drive/Bluffton, SC 29910  
[www.palmettobreezetransit.com](http://www.palmettobreezetransit.com)

## REQUEUST FOR PROPOSALS

RFP#: P102

This RFP is available in its entirety in electronic form via the Lowcountry Council of Governments (LCOG) website at [www.lowcountrycog.org/solicitations](http://www.lowcountrycog.org/solicitations) as well as the Palmetto Breeze Transit website at [www.palmettobreezetransit.com/requests-for-proposals](http://www.palmettobreezetransit.com/requests-for-proposals). 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](mailto:srossi@lowcountrycog.org), Phone: 843-473-3958.

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

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**PROJECT TITLE:** Request for Proposal for Consultant to plan Palmetto Breeze service for the Hilton Head Island Airport

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**PROPOSAL DUE DATE...(Opening Date/Time):** December 17, 2021, 3:00 pm.

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**RETURN PROPOSAL TO:** RFP Coordinator, Stephanie Rossi, Planning Director, Lowcountry Council of Governments via email at [srossi@lowcountrycog.org](mailto:srossi@lowcountrycog.org)

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**EXPECTED TIME PERIOD FOR CONTRACT**

Approximatley 3 to 4 months concluding April 2022. Lowcountry Regional Transit Authority reserves the right at its discretion to extend the contract up to three additional months.

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

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**MUST BE SIGNED TO BE VALID**

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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

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## PART I: GENERAL INFORMATION

- A. 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](mailto: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.
- B. Proposals will be considered as specified herein or attached hereto under the terms and conditions of this proposal.
- C. 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.
- D. 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.
- E. Proposals must provide ***90 days for acceptance*** by the Lowcountry Council of Governments from the due date for receipt of proposals.
- F. OFFERORs are to include all applicable requested information and are encouraged to include any additional information they wish to be considered.
- G. **SUBMISSION OF QUESTIONS:** All questions or request for information must be submitted via email to the RFP Coordinator, Stephanie Rossi, at [srossi@lowcountrycog.org](mailto:srossi@lowcountrycog.org) and received by December 8, 2021. 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.
- H. **ONE (1) DIGITAL COPY OF YOUR PROPOSAL IS REQUIRED.**
- I. Notice of intended award of contract will be posted on the LCOG website at [www.lowcountrycog.org](http://www.lowcountrycog.org). All bidders will be notified via email.

## PART II: SCOPE OF PROPOSAL

Proposals shall include the following information:

1. 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.
2. Name the prime and subconsultants that will comprise the team and identify the Executive Officer of each company.
3. Identify the proposed Program Manager for the team who will be the sole point of contact for Lowcountry Regional Transit Authority for day to day operations.
4. 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).
5. Provide an organizational chart depicting the relationships between the team members and agencies.
6. 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.
7. Provide a proposed list of required tasks and milestones to address the provided scope of work.
8. 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.
9. Provide a flow chart depicting key task activities and sequence.
10. 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

- A. **PURPOSE:** The RFP provides interested OFFERORs with sufficient information to enable them to prepare and submit written proposals for consideration by the Lowcountry Council of Governments (LCOG) and the Lowcountry Regional Transit Authority.
- B. **PROJECT ADMINISTRATION:** This project will be administered by Lowcountry Regional Transit Authority.

## PART IV: SCOPE OF WORK

This RFP is seeking professional consulting services to work with the Lowcountry Regional Transit Authority (LRTA) also referred to as Palmetto Breeze to define a new service to and from the Hilton Head Airport, utilizing existing resources, which best serves the needs of airport patrons.

### **Background**

Hilton Head Island Airport's passenger boarding numbers are growing in response to the added airline capacity. More than 233,000 passengers made their way through the Island's Airport in 2019. This is more than a 196% increase in passengers arriving and departing from Hilton Head Island compared to the 78,795 passengers in 2018.

The growth is attributed to new air service and added seat capacity, both products of passenger demand and the 2018 expansion of the runway at Hilton Head Island Airport. There have also been new routes and seat capacity added by American Airlines as well as the entry of Delta Air Lines and United Airlines to the market.

There is currently no dedicated shuttle system being offered to service the airport limiting airport patrons' transportation choices to and from the airport.

### **Project Objectives**

It is the intent of the Request for Proposals to identify consulting services to work with Palmetto Breeze to define a new service to and from the Hilton Head Airport, utilizing existing resources, which best serves the needs of airport patrons.

The consultant will work closely with the Palmetto Breeze staff and other planning agencies including but not limited to Hilton Head Island staff, Hilton Head Island Airport, Hilton Head Island Chamber, Beaufort County, Lowcountry Council of Governments, and other possible partners such as local hotels and resorts.

Specific tasks and expected deliverables that are to be generated from this project shall include but not be limited to what is discussed below.

### **Work Program**

The work program will consist of, but not be limited to, the following components:

- A. Review all other transportation service options currently available that serve the Hilton Head Island Airport including but not limited to hotel and resort shuttles, taxi service, private airport shuttle service, rental options and on demand service such as Uber and Lyft.
  - a. Identify any gaps in service as potential opportunities.
  - b. Identify opportunities to connect to or leverage as part of an existing service.
- B. The consultant will work to engage stakeholders to determine needs of the new service. Stakeholders may include but are not limited to:
  - i. Lowcountry Regional Transit Authority Board
  - ii. Hilton Head Island staff

- iii. Hilton Head Island Airport
- iv. Elected officials
- v. Hilton Head Island Chamber
- vi. Beaufort County
- vii. Lowcountry Council of Governments
- viii. Local hotels and resorts and other destinations

- C. Design a new transit route serving the Hilton Head Island Airport:
  - b. Determine the type of service to best suit the needs of Hilton Head Island Airport passengers utilizing LRTAs existing resources.
    - i. Fixed Route
    - ii. On demand
    - iii. Combination
  - c. Determine likely service time based on airline arrival and departure times.
  - d. Determine likely route and stops of the service based on needs of airport patrons and staff. Stops identified need to be coordinated with willing property owners.
  - e. Provide cost estimates for the service based taking into consideration hours of service, vehicle type and mileage covered in various scenarios.
  - f. Fare estimates and potential sources to offset fares.
- D. Prepare and Revise Draft and Submit Final Plan.

## PART V: EVALUATION AND SELECTION CRITERIA

Proposals will be distributed to a scoring 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 and regional studies and documents of	25



<p>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.</p>	
<p>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.</p>	<p>25</p>
<p>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.</p>	<p>10</p>

## PART VI: PERFORMANCE CONDITIONS

- A. The Contract shall be on the basis of a **fixed fee** with a Contract **maximum** to develop a plan for Palmetto Breeze service for the Hilton Head Island Airport.
- B. The contractor shall be required to assume sole responsibility for the complete effort as required by this RFP. LRTA 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 April 4, 2022.

## PART VII: REQUIRED GOVERNMENTAL TERMS

The Offer/Bidder selected contract is subject to a Financial Assistance Contract between the LRTA (as Recipient) and the U.S. Department of Transportation (DOT), Federal Transit Administration (FTA), and the South Carolina Department of Transportation (SCDOT).

The following standard clauses are a part of this Contract and shall be included in each of the Contractor's Subcontracts:

### 1. **No Federal Government Obligations to Third Parties**

The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### 2. **False or Fraudulent Statements or Claims – Civil and Criminal Fraud**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal

assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### **3. Access to Third Party Contract Records**

The following access to records requirements apply to this Contract:

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 18 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$250,000.

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

Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the

Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 18 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

**4. Changes to Federal Requirements**

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.

**5. Terminations**

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 closeout 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 does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default.

The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. 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.

#### Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

#### Waiver of Remedies for any Breach

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

#### Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

#### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions 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. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Convenience or Default (Cost Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **6. Civil Rights (Title VI, EEO, ADA)**

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

### Federal Equal Employment Opportunity (EEO) Requirements

#### *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.

#### *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.

#### *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.

#### *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.

#### *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.

#### *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.

#### *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.

#### *Age*

In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621634, 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.

#### *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.

#### *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.

### **7. Disadvantaged Business Enterprises (DBES)**

Each contract the Recipient signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following Federal Clause language:

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26,



Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. SCDOT has established its DBE overall goal for Federal Fiscal Years (FFY) 2018 – 2020 at 13.2% for new contracts, with .2% to be obtained through race-neutral means and the remaining 13.0% through race-conscious means. LRTA's overall goal for DBE participation is 0.5% to be obtained through race-neutral means. A separate contract specific goal has not been established for this procurement.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Recipient deems appropriate, which may include, but is not limited to:

- a. Withholding monthly progress payments
- b. Assessing sanctions
- c. Liquidated damages, and/or
- d. Disqualifying the contractor from future bidding as non-responsible

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed in its written documentation of its contract commitment to the Recipient unless the contractor obtains written consent from the Recipient.

The contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBEs as listed in its written documentation of its commitment to the Recipient unless the contractor obtains written consent from the Recipient.

The contractor will be required to report its DBE participation obtained throughout the period of performance.

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 10 calendar days after the contractor's receipt of payment for that work from the Recipient. In addition, the contractor is required to return any retainage payments to those subcontractors within 10 calendar days after incremental acceptance of the subcontractor's work by the Recipient and contractor's receipt of the partial

The contractor shall not terminate a DBE subcontractor listed in its written documentation of its commitment to the Recipient to use a DBE subcontractor (or an approved substitute DBE firm) without the Recipient's prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform

work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The contractor must promptly notify the RECIPIENT 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. For purposes of this paragraph, good cause includes the following circumstances:

- a. The listed DBE subcontractor fails or refuses to execute a written contract.
- b. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor.
- c. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
- d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- f. SCDOT or LRTA determined that the listed DBE subcontractor is not a responsible contractor;
- g. The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- h. The listed DBE is ineligible to receive DBE credit for the type of work required;
- i. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- j. Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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 RECIPIENT.

Before transmitting to LRTA its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to LRTA, of its intent to request to terminate and/or substitute, and the reason for the request.

**8. Incorporation of FTA Terms**

The provisions of this Contract include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**9. Debarment and Suspension**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a. Debarred from participation in any federally assisted Award;
- b. Suspended from participation in any federally assisted Award;
- c. Proposed for debarment from participation in any federally assisted Award;
- d. Declared ineligible to participate in any federally assisted Award;
- e. Voluntarily excluded from participation in any federally assisted Award; or
- f. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Recipient. If it is later determined by the Recipient that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while

this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**10. Fly America**  
Definitions

As used in this clause—

“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.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S. flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S. flag air carriers for U.S. Government financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign flag air carrier if a U.S. flag air carrier is available to provide such services.

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.

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]:

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.

**11. 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.

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.

\_\_\_\_\_(Seal)\_\_\_\_\_

(Signature Of Owner, Partner Or Corporate Officer

Date

If Corporate Officer State Title: \_\_\_\_\_

\_\_\_\_\_  
(Name - Please Print)