

City of Spartanburg

Procurement and Property Division

Post Office Drawer 1749, SC 29304-1749

Legal Notice

Request for Proposal for Safety Management System Readiness Assessment & Agency Safety Plan Development

September 8, 2019

NOTICE IS HEREBY GIVEN – The Spartanburg Area Regional Transit Agency will be the lead agency in this procurement hereinafter referred to as “SPARTA,” is conducting a joint procurement with The City of Anderson “Electric City Transit”, Greenlink, CATBUS, and Transportation Service Bureau for services for a contractor to conduct a Safety Management System (SMS) Readiness Assessment. The contractor will also develop an Agency Safety Plan that is compliant with the Federal Transit Administration’s (FTA) Public Transportation Agency Safety Plan (PTASP) Rule (49 CFR Part 673).

Proposal No: 1920-10-01-02

Disadvantaged Business Enterprises are encouraged to submit bids for this procurement and vendors/manufacturers are encouraged to procure goods and services from disadvantaged business enterprises. All participation of DBE’s should be described in detail in bidder’s proposals. If the prime vendor or any subcontractors are DBE’s that are certified by the South Carolina Department of Transportation, documentation of such a certification must be included in the bid at the time of submission.

Bids must be submitted in sealed envelopes with the bidder's name, full mailing address, and General Contractor License Number shown as the return address. Sealed envelopes shall be addressed to City of Spartanburg Procurement Department, 145 West Broad Street, Spartanburg, SC 29306 - Attention: Mr. Carl Wright, Procurement and Risk Manager, Tuesday, October 1, 2019 no later than 3 PM, City Hall, 145 W. Broad Street, at which time they will be publicly opened and read aloud in the Training Room, same location.

The City of Spartanburg reserves the right to reject any or all proposals or to waive any informality in the qualifications process. Proposals may be held by the City of Spartanburg for a period not to exceed sixty (60) days from the date of the opening of Proposals for the purpose of reviewing the Proposals and investigating the qualifications of prospective parties, prior to awarding of the Contract.

Complete proposal package will be available at www.cityofspartanburg.org by following the links for Invitations for bids.

Proposals can be hand delivered or mailed to the following address:

City of Spartanburg
P.O. Box 5107
145 W. Broad Street
Spartanburg, SC. 29304

Attn: Procurement and Property Division

For further information and complete Proposal Package, please contact the Procurement and Property office at (864) 596-2049. Complete proposal package also available at www.cityofspartanburg.org by following the links for Invitations for bids. The following Proposal Number Must be placed on the outer envelope in order for the bid to be Stamped in as accepted on time: **Proposal No: 1920-10-01-02**

Request for Proposal for Safety Management System Readiness Assessment and Agency Safety Plan Development

The Spartanburg Area Regional Transit Agency will be the lead agency in this procurement hereinafter referred to as "SPARTA," is conducting a joint procurement with The City of Anderson "Electric City Transit", Greenlink, CATBUS, and Transportation Service Bureau for services of a contractor to conduct a Safety Management System (SMS) Readiness Assessment. The contractor will also develop an Agency Safety Plan that is compliant with the Federal Transit Administration's (FTA) Public Transportation Agency Safety Plan (PTASP) Rule (49 CFR Part 673).

It is the intent of SPARTA to solicit proposals from professional contractor for the required SMS Readiness Assessment for the formulation of the agency (PTASP).

MAXIMUM CONTRACT PERIOD

1. This contract shall run for a period beginning on or after **October, 2019 – March 31, 2020** and ending upon successful completion of all required documents and Final draft of the Agency Safety Plan for the following agencies: s conducting a joint procurement with The City of Anderson "Electric City Transit", Greenlink, CATBUS, and Transportation Service Bureau
2. Proposer and SPARTA may extend the contract for a duration of not more than 30 days from the contract end date.
3. This RFP shall comprise the parts of such contract and will be incorporated therein.

The successful contractor will sign a contract. Contract to be signed on or after **10/30/2019**. Date provided is an estimate only. Any resulting contract will begin on the date specified in the notice of award. Should there be a termination of this contract; a thirty (30) day notice must be given by either party.

Right to Reject

1. Any or all bids may be rejected if there is a sound, documented business reason.
2. SPARTA reserves the right to reject any and all proposals, the right in its sole discretion to accept the proposal it considers most favorable to SPARTA's interests, and the right to waive minor irregularities in the procedures.
3. SPARTA further reserves the right to reject all proposals and seek new proposals when such procedure is reasonable and in the best interest of SPARTA

INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS DEFINITIONS EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION. **AMENDMENT** means a document issued to supplement the original solicitation document.

BOARD means the "Boards of each participating agency"

BUYER means the Procurement Officer.

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response to this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

ORDERING ENTITY or Using Governmental Unit means **SPARTA/City of Spartanburg** that has submitted a Purchase Order.

PROCUREMENT OFFICER means the person, or his successor, identified as such on the Cover Page.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

SPARTA/City of Spartanburg participating agencies means the Using Entity identified on the Cover Page.

SUBCONTRACTOR means any person having a contract to perform work or render service to Contractor as a part of the Contractor's agreement arising from this solicitation.

ADDENDUMS TO SOLICITATION (a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors will be contacted for the issuance of Amendments via email or you should monitor <http://www.cityofspartanburg.org/bid-opportunities>.

AUTHORIZED AGENT All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

AWARD NOTIFICATION Notice regarding any award or cancellation of award will be posted at <http://www.cityofspartanburg.org/bid-opportunities>. If the contract resulting from this Solicitation has a total or potential value of fifty thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation.

PROPOSAL AS OFFER TO CONTRACT By submitting Your Bid or Proposal, You are offering to enter into a contract with **Sparta**,. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as ***the Offeror*** on the Cover Page (**The City of Anderson "Electric City Transit", Greenlink, CATBUS, and Transportation Service Bureau**). An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

BID/PROPOSAL ACCEPTANCE PERIOD In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID/PROPOSAL IN ENGLISH and DOLLARS Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

BOARD AS PROCUREMENT AGENT (a) Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in

writing, the Executive Director/General Manager of each participating agency is the only official authorized to bind the Contractor with regard to this procurement. (b) Purchasing Liability. The Procurement Officer is an employee of the SPARTA/City of Spartanburg acting on behalf of the SPARTA and the participating agencies pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the participating agencies. Each participating agency's Board is not a party to such contracts and bears no liability for any party's losses arising out of or relating in any way to the contract.

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that:

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this quotation/bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and (iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

The contractor is required to submit a scope of work plan to conduct the following:

Phase 1:

1. Review the Agency's current safety policies, procedures, and plans along with the Agency's organizational chart and additional documentation related to the Agency's implementation of SMS.
2. Conduct a two-day onsite review of the Agency's operations and safety initiatives that are currently in place.
3. The onsite session shall include:
 - a) Orientation and roundtables with the Agency's managers and supervisors regarding FTA SMS and Part 673 as they apply to small public transportation providers.
 - b) A basic SMS Readiness Assessment to identify the Agency's processes already in place that can support SMS implementation.
 - c) Summarize the SMS processes that the Agency needs to develop and document in their Agency Safety Plan to meet Part 673 requirements.
4. Compile the data and information gathered from the onsite review and share the results of the SMS Readiness Assessment in an SMS Development Plan that details the processes the Agency already has in place that can support its SMS and the processes it must develop to meet the requirements of Part 673. This plan will list initiatives the Agency may wish to consider when developing its SMS processes. The SMS Development plan must include the following:
 - a) An overview that includes a short explanation of the SMS Readiness Assessment site visit and activities conducted during the assessment, as well as a list of the staff that the assessment team interviewed.
 - b) A list of existing practices the transit agency currently has in place, identified during the readiness assessment which will support its SMS development and implementation efforts.
 - c) Identification of Safety Management Policy practices and a list of the activities within the safety management policy component of SMS that must be addressed to begin developing and implementing SMS.
 - d) Identification of Safety Risk Management practices and a list of the activities within the safety risk management component of SMS that must be addressed to begin developing and implementing SMS.
 - e) Identification of Safety Assurance practices and a list of the activities within the safety assurance component of SMS that must be addressed to begin developing and implementing SMS.
 - f) Identification of Safety Promotion practices and a list of the activities within the safety promotion component of SMS that must be addressed to begin developing and implementing SMS.
 - g) SMS Implementation Action Steps: This is a list of the steps that must be taken to implement SMS. It should also lay out a strategy for the order in which SMS processes should be implemented.
5. The contractor shall deliver this plan as outlined above within one month of the initial onsite visit.

Phase 2:

- The contractor will prepare a draft Agency Safety Plan using the results of the SMS Readiness Assessment and outcomes of the Agency's activities consistent with recommendations made in the SMS Development Plan.

- The contractor will conduct a subsequent onsite visit of two days to deliver the draft Agency Safety Plan and hold meetings with the Agency’s staff, as necessary, to review SMS processes that are needed to complete the draft and comply with Part 673 requirements.
- After the subsequent onsite technical assistance visit, the contractor will review and edit the draft Agency Safety Plan and submit it for finalization and approval.

Questions concerning this RFP will be accepted in writing via certified mail or email to the office through September 17, 2019 at 3:00pm.

Information for Offerors to Submit – General: Proposal Procedure

1. Five (5) copies of the proposal are required.

2. Sealed Proposals Due Tuesday, **October 1, 2019, no later than 3:00 PM**. Proposals must be submitted to Carl Wright, Procurement and Property Manager, City Hall 145 W. Broad Street, at which time they will be publicly opened and read aloud in the Training Room. Technical question regarding the scope of services should be directed to cwright@cityofspartanburg.org subject line must be **SMSRA&A Safety Plan RFP**. Proposals can be hand delivered, Fedex-ed or UPS-ed to or mailed to the following address: 145 W. Broad Street, Spartanbug SC 29306.

US Postal Service address:
 City of Spartanburg
 P.O. Box 5107
 Spartanburg, SC. 29304 Attn:
 Procurement and Property Division

3. Indicate on face of submittal envelope/box – Response to SMS Readiness Assessment & PTASP - RFP **Proposal Number 1920-10-01**

4. Proposals must be submitted no later than **10/1/2019 at 3:00PM**. Any proposal arriving after 3:00 pm on that date will not be accepted.

5. Provide your FEIN #, SEIS Vendor ID #, & acknowledge your firm is registered in Sam.gov

Mandatory Criteria:

- a) A detailed narrative statement outlining the Contractor’s overview of how they intend to complete the scope of services.
- b) Summary of the Proposer’s Qualifications:
 - a. The general history and qualifications of the business for providing these services.
 - b. Separate sealed envelope titled “Cost Estimate” to outline the cost for performing the requested work with the breakdown to and include any additional costs.

Please forward typed written questions email to:

Carl F. Wright, Procurement Manager cwright@cityofspartanburg.org
 Subject line must state: **SMSRA&A Safety Plan RFP Question**

Project Timeline:

Announcement of the Bid – September 8, 2019
Request for clarifications – September 17, 2019
Proposal submission due – October 1, 2019
Letter of Intent to award – October 4, 2019
Notice to Proceed – October 15, 2019

The completion date for delivery of the final draft of the **Agency Safety Plan will be April 1, 2020.**

Qualifications:

Qualification of Offerors:

1. To be eligible for award of a contract, a prospective contractor or vendor must be responsible. In evaluating an Offeror’s responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An offeror must, upon request of SPARTA, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. Must be registered in SAM.GOV in order to be considered for award of contract.

AWARD CRITERIA

TO BE ELIGIBLE FOR AWARD OF A CONTRACT, A PROSPECTIVE CONTRACTOR MUST BE RESPONSIBLE. IN EVALUATING AN OFFEROR’S RESPONSIBILITY, THE STATE STANDARDS OF RESPONSIBILITY [R.19-445.2125] AND INFORMATION FROM ANY OTHER SOURCE MAY BE CONSIDERED. AN OFFEROR MUST, UPON REQUEST OF **Sparta/City of Spartanburg**, FURNISH SATISFACTORY EVIDENCE OF ITS ABILITY TO MEET ALL CONTRACTUAL REQUIREMENTS. UNREASONABLE FAILURE TO SUPPLY INFORMATION PROMPTLY IN CONNECTION WITH A RESPONSIBILITY INQUIRY MAY BE GROUNDS FOR DETERMINING THAT YOU ARE INELIGIBLE TO RECEIVE AN AWARD. S.C. CODE SECTION 11-35-1810. [05-5005-1]

Proposers are to submit the following information or documentation:

- (a) You represent that the information provided is complete.
- (a) The general history and qualifications of the business for providing these services.
- (b)(b) Resumes of key individuals that will be providing this service.
- (c)(c) A detailed, narrative statement outlining the Contractor’s overview of how they intend to complete the scope of services.

By submitting Your Bid or Proposal, You are offering to enter into a contract with Sparta,. Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page (The City of Anderson “Electric City Transit”, Greenlink, CATBUS, and Transportation Service Bureau). Entity has the authority to impose their units general terms and conditions (see attachment A).

THE AWARD WILL BE MADE TO THE HIGHEST RANKED, RESPONSIVE AND RESPONSIBLE OFFEROR WHOSE OFFER IS DETERMINED TO BE THE MOST ADVANTAGEOUS TO **Sparta/City of Spartanburg**. This is considered a “best Value Procurement” and award will be made to the Contractor based upon the following:

- Bid Price – 60%
- Narrative Statement - 20%
- Contractor Resumes – 20%

Proposers are required to submit their FEIN and SCEIS vendor number with the proposal. To obtain a SCEIS vendor number please go to <http://www.mmo.sc.gov/PS/vendor/PS-vendor-registration.phtm>:

Proposers are required to be registered at www.sam.gov.

PURCHASE ORDERS Contractor shall not perform any work prior to the receipt of a purchase order from the **Sparta/City of Spartanburg**. The **Sparta/City of Spartanburg** shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

CHANGES

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

(a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;

(b) method of shipment or packing;

(c) place of delivery;

(d) description of services to be performed;

(e) time of performance (i.e., hours of the day, days of the week, etc.); or,

(f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor’s cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract 20

modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the delay in notification. (4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

BID/PROPOSAL SCHEDULE

PLEASE NOTE IMPORTANT DATES: Request for Proposal Schedule

1. Deadline for Questions – September 17, 2019 **at 3:00pm**
2. All questions will be processed as Addendums/ Question answers – To receive addendums, please register and monitor <http://www.cityofspartanburg.org/bid-opportunities> or contact Carl F. Wright by email at cwright@cityofspartanburg.org no later September 17, 2019 **at 3:00pm**
3. Deadline for Submission of Proposals – **10/1/2019 at 3:00pm**, should a natural disaster emergency disrupt normal postal delivery so that offers cannot be received at the **Sparta/City of Spartanburg** office designated for receipt of bids by the exact time stated above, the time specified for receipt of offers will be deemed to be extended to the same time of day in the solicitation on the first work day on which mail delivery resumes. Any bids received after the 24 hour deadline will be deemed non-responsive.
4. Proposals Opening – **10/1/2019 at 3:00pm**
5. Title Page (page 1) to include the RFP subject, name of Proposer's firm, address, telephone number, name of contact person and date. Include Five (5) copies of proposals submitted in a sealed envelope. **Submit a separate sealed envelope containing the cost proposal.**
6. Proposers must acknowledge below that they are in compliance with all applicable Federal clauses that are included on the subsequent page(s).

COMPANY PROFILE

Company Name: _____

Address: _____

City/State/Zip: _____ / _____ / _____

Telephone/Fax: _____ / _____

Email Address: _____

Contact Person: _____

FEIN: _____

SCEIS Vendor ID Number: _____

Our firm is registered with Sam.gov: **Yes** **No** _____

PLEASE NOTE THAT IN ORDER TO ENTER IN AN AGREEMENT FOR THIS SERVICE YOU MUST BE REGISTERED WITH SAM.GOV.

Federal clauses are attached for reference, the scope of services for this project is to include but is not limited to the following federal clauses:

FEDERAL TRANSIT ADMINISTRATION (FTA) CONTRACT CLAUSES

Applicability of Third-Party Contract Clauses (excluding micro-purchases, except of construction contract over \$2000)

Micro-Purchases: The City considers micro-purchases to be those purchases of \$3,000 or less. These purchases are exempt from FTA's Buy America requirements. Davis-Bacon prevailing wage requirements, will apply to construction contracts exceeding \$2,000, even though the recipient uses micro-purchase procurement procedures.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq. 49 CFR Part 18

Applicable to: All contracts.

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.

FEDERAL CHANGES

49 CFR Part 18

Applicable to: All contracts.

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 Agreement (Form FTA MA (14) dated October 2007) between City of Spartanburg 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.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicable to: All contracts.

(1) City Of Spartanburg 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.

(2) 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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

31 U.S.C. 3801 et seq. 49 CFR Part 31, 18 U.S.C. 1001 49 U.S.C. 5307

Applicable to: All contracts.

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

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 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.

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

TERMINATION

49 U.S.C. Part 18 FTA Circular 4220.1F

Applicable to: All contracts in excess of \$10,000.

(1) Termination for Convenience (General Provision): City of Spartanburg may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the City of Spartanburg'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 City of Spartanburg to be paid the Contractor. If the Contractor has any property in its possession belonging to City of Spartanburg, the Contractor will account for the same, and dispose of it in the manner City of Spartanburg directs.

(2) 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, City of Spartanburg may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by City of Spartanburg 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, City of Spartanburg, 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.

(3) Opportunity to Cure (General Provision): City of Spartanburg 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 City of Spartanburg satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from City of Spartanburg setting forth the nature of said breach or default, City of Spartanburg 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 City of Spartanburg from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(4) Waiver of Remedies for any Breach: In the event that City of Spartanburg elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City of Spartanburg shall not limit the City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630,

41 CFR Parts 60 et seq.

Applicable to: All contracts.

(1) Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. § 12132, and 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, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity

(a) Race, Color, Creed, National Origin, Sex In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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 (US DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. 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, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 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.

(c) Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

49 CFR Part 26

Applicable to: All contracts.

(1) The Federal Fiscal Year goal has been set by City of Spartanburg in an attempt to match projected procurements with available qualified disadvantaged businesses. City of Spartanburg's goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established by City of Spartanburg as set forth by the Department of Transportation Regulations 49 CFR Part 26, and is considered pertinent to any contract resulting from this request for quotation/proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the bid documents, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBEs in the work provided, City of Spartanburg may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the bid documents, it will be understood that no specific goal is assigned to this contract.

(a) Policy – It is the policy of the Department of Transportation and City of Spartanburg that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of Contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26, apply to this Contract. It is also the policy of Spartanburg to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;

- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs; and
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.

The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26, have the maximum opportunity to participate in whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts. It is further the policy of Spartanburg to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of City of Spartanburg procurement activities are encouraged.

(b) DBE obligation – The Contractor and its subcontractors agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

(c) Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBEs in the work provided, City of Spartanburg may declare the contractor noncompliant and in breach of contract. Guidance concerning good faith efforts may be found in the bid documents and are also listed in City of Spartanburg Disadvantaged Business Enterprise Program document.

(d) The Contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with City of Spartanburg’s DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of City of Spartanburg and will be submitted to City of Spartanburg upon request.

(E) City of Spartanburg provide affirmative assistance, as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBEs,
- Available listing of Minority Assistance Agencies,
- Holding bid conferences to emphasize requirements.

(2) Prime Contractors are encouraged to use the services of DBE banks.

(3) DBE Program Definitions:

(a) Disadvantaged business enterprise or DBE means a for-profit small business concern –

- i. That is at least 51 percent owned by one or individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or such individuals; and
- ii. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(b) Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (12 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

(c) Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is --

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
- i. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;
 - ii. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - iii. "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - iv. "Asian-Pacific American", which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of Pacific Islands (Republic of Palua), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - v. "Subcontinent Asian Americans", which includes persons whose origins are from India, Pakistan, and Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - vi. Women;
 - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Disadvantaged Business Enterprises are encouraged to submit bids for this procurement and vendors/manufacturers are encouraged to procure goods and services from disadvantaged business enterprises. All participation of DBE's should be described in detail in bidder's proposals. If the prime vendor or any subcontractors are DBE's that are certified by the South Carolina Department of Transportation, documentation of such a certification must be included in the bid at the time of submission.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17

Applicable to: Contracts as described below.

(1) 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 49 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.

(2) 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 \$100,000.

(3) 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. (If applicable)

(4) 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. (If applicable)

(5) 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.

(6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

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

RIGHT OF PROTEST

FTA Circular 4220.1F

Applicable to: All contracts

If a Contractor has a grievance with a solicitation or award, they may protest to the Procurement Manager within 14 days of award. The written protest shall include the name of the protestor, solicitation/contract number or description, and a statement of the grounds for protest. Protests should be filed with the Procurement Manager at the following address:

**City of Spartanburg
Procurement and Risk Manager
145 West Broad Street
P.O. Box 1749
Spartanburg, South Carolina 29304
Fax: (864) 596-2365**

The City of Spartanburg will investigate the complaint and decide whether the complaint is justified and if so, what corrective action should be taken. All decisions by the City Manager are final. The Federal Transit Administration will only entertain a protest that alleges City of Spartanburg failed to follow the stated protest procedures. Such protests to FTA must be filed in accordance with FTA Circular 4220.1F.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Applicable to: All contracts.

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 City of Spartanburg requests which would cause City of Spartanburg to be in violation of the FTA terms and conditions.

The Service Provider shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause The City to be in violation of the FTA terms and conditions.

By signing this form _____ (Authorized Representative) of

_____(Company) Shall comply with all FTA, State and City regulations as it applies to this procurement.

I. Bid Protest Procedures

Policy: The purpose of the Bid Protest Procedure is to establish a procedure for processing any pre-bid opening, or post-bid opening complaints of an interested party on the award of a contract, a bid specification and requirements, or a purchase.

City shall in all instances disclose information regarding protests to all applicable State and Federal agencies. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the City before pursuing a protest with the all applicable State and Federal agencies. Then only a "interested party," that is, "a party that is an actual or prospective bidder whose direct economic interest would be effected and protest.

City shall maintain written procedures that are consistent with all applicable City policies to consider and resolve protests relating to solicitations and shall comply with all applicable State and Federal agencies requirements regarding notice of protests and notification of a protestor's right to appeal to the all applicable State and Federal agencies.

All City solicitations, funded with FTA money, shall include the procedures for filing a protest. The procedures detail the various phases of procurement (Pre-Submittal protest of solicitation specifications or requirements, or Pre-Award protest of proposed award) and include the submittal requirements including timeframe for timely delivery of protest.

Upon receipt of a protest for any FTA-funded procurement, the Purchasing Division shall immediately notify the Transit Division. The Transit Division shall notify the designated FTA Regional Administrator. The information to be provided to the FTA shall include a brief description of the protest, the basis of disagreement, and if open, how far the protest has proceeded or if resolved, the agreement or decision reached. The designated grant manager for the Transit Division shall provide all required protest information to the FTA in the City's quarterly Milestone Progress Reports and at Project Management Oversight review meetings.

Applicable federal funded procurement regulations provide that a protestor may appeal the City's decision with the FTA only after exhausting its administrative remedies with the City, and that the protestor must file its appeal in writing with the FTA Regional Administrator within five working days of receipt of the City's decision. Applicable FTA regulations also provide that the FTA will only consider a protest if the City does not have protest procedures or has not complied with its protest procedures or if the issue involves violations of Federal law or regulations.

FTA will limit its review of third party contract protests as follows:

1. The recipient does not have protest procedures, or
2. Has not complied with its protest procedures, or
3. Has not reviewed the protest when presented an opportunity to do so.
4. When a Federal law or regulation is involved..."FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program.

The protestor must deliver its appeal to the FTA Regional Administrator...within five (5) working days of the date when the protestor has received actual or constructive notice of the recipient's final decision," or ..."when the protestor has identified other grounds for appeal to FTA," such as "the recipient's failure to have or failure to comply with its protest procedures or failure to review the protest." [FTA C 4220.1F, VII, 1.a. b.] FTA C 4220.1F Ch. VI, 3.i.(1)(e)2.d FTA C 4220.1F Ch. VII, 1

Procedure: The protest must be submitted in writing and shall include the following information:

- The name and address of the protestor;
- The name and telephone number of the protestor contact person;
- A complete statement of the grounds of the protest with documentation of the protest claim(s). This information must be submitted to the City of Spartanburg Attorney who will act as the contact point for all bid protests.

Upon receipt of a protest, the City of Spartanburg Manager will notify the protest committee and establish a time for a committee meeting. This committee shall evaluate the material provided by the protestor and shall prepare a written recommendation for the City Manager concerning the validity of the protest and, if appropriate, any corrective action to be taken.

Time for Filing: Any potential bidder believing that bid documents or drawings contain restrictive specifications or any other improprieties regarding the solicitation for bids may file a protest with City of Spartanburg, which shall be received by City of Spartanburg not later than ten (10) working days prior to, or after the bid opening, and shall contain all reasons for the protest. The committee will then respond to the protest within five (5) working days of the receipt of the protest, and the protestor will have five (5) working days to appeal City of Spartanburg's initial response. Once an appeal has been received, the committee will render its final decision in writing within ten (10) working days to the protestor.

In all cases, if protest deadlines are not met, City of Spartanburg will proceed with the normal bid and contract award procedure.

Review of Protest: City of Spartanburg shall establish a committee to review bid protest(s). This committee shall be appointed by the City Manager and shall include, but not be limited to the following:

- City of Spartanburg Manager
- City of Spartanburg Attorney
- Procurement Manager

The City Manager, at his/her discretion, may appoint other City of Spartanburg personnel or persons outside of the City of Spartanburg to this committee based on technical expertise, or special knowledge of the particular procurement activity.

II. Authority to Resolve Protested Awards – Actual Bidders-Contractors

1. Any actual bidder or contractor who is aggrieved in connection with the intended award or award of a contract shall protest to the City Manager in the manner stated under Subsection "2" of this section within ten (10) calendar days of the date of notification of award posted in accordance with this policy.
2. Protest Procedure: A protest shall be in writing, submitted to the City Manager, as stated above, and shall set forth the grounds of protest and relief requested with enough particularity to give notice of the issues to be decided.
3. Authority to Resolve Protest: The City Manager in coordination with, and under the advisement of the City Attorney, shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest by an actual aggrieved bidder, offeror, or a contractor concerning the award of a contract.
4. Decision: If the protest is not resolved by mutual agreement, the City Manager in coordination with the City Attorney shall issue a decision in writing within ten (10) days after receipt of the protest. The decision shall state the reasons for the action taken.

5. Notice of Decision: A copy of the decision under Subsection “4” of this section shall be mailed or otherwise furnished immediately to the protestant and any other intervening party.

6. Failure to Render Timely Decision: If the City Manager does not issue the written decision required under Subsection “3” of this Section within a reasonable time after written request for a final decision or within such longer period as may be agreed upon by the parties, then the contractor shall proceed as if an adverse decision has been received.

Please list three references that qualify you to provide these services: (Please include contact name, telephone, and email.)

1. _____

2. _____

3. _____

Price Page

Addenda Acknowledgement: Please acknowledge receipt of any addenda below:

Addendum #: _____ Date Issued: _____

Addendum #: _____ Date Issued: _____

PROPOSALS TITLE: To conduct a Safety Management System (SMS) Readiness Assessment & Develop a draft Public Transit Agency Safety Plan compliant to FTA regulation Part 673.

Agency	Sparta City of Spartanburg	“Electric City Transit City of Anderson	Greenlink	CATBUS	Spartanburg Regional Medical Center Transportation Service Bureau
Phase 1 – Cost Proposal					
Phase 2 – Cost Proposal					
Proposal Cost:					
Travel Expenses					
Final Total					

Authorized Signature: _____ Date: _____

Telephone / _____ Email: _____

AFFIDAVIT OF NON-COLLUSION

I state that I am _____ (title) of _____ (name of firm) and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this Offer.

I state that:

- (1) The price(s) and amount of this Offer have been arrived at **independently and** without consultation, communication or agreement with any other Proposer or potential Proposer.
- (2) That neither the price(s) nor the amount of this Offer, and neither the approximate price(s) nor approximate amount of this Offer, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed before Solicitation opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit an Offer higher than this Offer, or to submit any intentionally high or noncompetitive Offer or other form of complementary Offer.
- (4) The Offer of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Offer.
- (5) _____ (name of firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described in the attached appendix.

I state that _____ (name of firm) understands and acknowledges that the above representations are material and important, and will be relied on **by the City of Spartanburg** in awarding the contract(s) for which this Offer is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the **City of Spartanburg** of the true facts relating to the submission of Offers for this contract.

(Authorized Signature)

(Name of Company/Position)

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary

My Commission Expires: _____

Attachment A
City of Greenville

GENERAL TERMS & CONDITIONS

PUBLIC RECORD

After an award is made, copies of the proposals will be available for public inspection, under the supervision of the City's Purchasing Division from 8:00 a.m. to 5:00 p.m. ET, Monday through Friday, at 206 South Main Street, 7th Floor, City Hall, Greenville, South Carolina.

RIGHTS RESERVED BY CITY/GTA

The City/GTA reserves the right to reject any or all proposals; to waive any informality or irregularity not affected by law; to evaluate, in its absolute discretion, the proposals submitted; and to award the contract based on the established criteria and according to the proposal which best serves the interest of the City.

DETERMINATION OF RESPONSIBILITY

The City/GTA may make such investigation as it deems necessary to determine the ability of an offeror to furnish the required services, and the offeror will furnish to the City/GTA all such information and data for this purpose as the City/GTA may request. The City/GTA reserves the right to reject any bid if the evidence submitted or investigation of such offeror fails to satisfy the City/GTA that offeror is properly qualified to carry out the obligations of a Contract and to deliver the services contemplated herein.

Offeror will fully inform themselves as to the conditions, requirements, and scope of work before submitting their proposal. Failure to do so will be at the offeror's own risk.

INTERPRETATION AND ADDENDA

All changes in specifications shall be in writing and furnished to all offerors. No verbal interpretation made to any respondent as to the meaning of this RFP shall be binding on the City/GTA. Offerors are cautioned that any statement made by City/GTA staff that materially change any portion of this RFP shall not be relied upon unless they are subsequently ratified in writing and distributed as an addendum by the City.

It shall be the offeror's responsibility to acknowledge receipt of addenda and ascertain that its proposal includes all addenda. Failure to do so may deem your proposal non-responsive.

ACCEPTANCE OF PROPOSAL CONTENT

Before submitting an offer, each offeror shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the performance of the contract and to verify any representations made by the City/GTA upon which the offer will rely. If the offeror receives an award as a result of its proposal, failure to have made such investigations and examinations will in no way relieve the offeror from its obligation to comply in every detail with all provisions and requirements

of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the contractor for additional compensation.

COMPETITIVE NEGOTIATION SOLICITATION

Negotiations shall be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the City/GTA can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations with the offeror ranked second shall be conducted.

SIGNATURE FORM

Proposals shall include a signed Signature Form. Proposals that do not include a signed RFP Signature Form will not be accepted as complete and shall not be considered. Signature Form must be signed in ink (not typed) in the appropriate space(s) by an authorized officer or employee of the Offeror.

REQUIREMENTS

The successful contractor shall comply with all instructions and shall perform services in a manner commensurate with the highest professional standards by qualified and experienced personnel.

PATENTS AND ROYALTIES

The contractor covenants to save, defend, keep harmless, and indemnify the City/GTA and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and costs - including court costs and attorney's fees, charges, liability, and exposure, however caused for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City/GTA. If the contractor uses any design, device, or materials covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.

APPLICABLE LAW AND JURISDICTION

This agreement and the rights, obligations and remedies of the parties hereto, shall in all respects be governed by and construed in accordance with the laws of the State of South Carolina, without reference to its conflict of law provisions, and venue for the resolution of all disputes regarding the terms of this agreement or the performance thereunder, whether in law or in equity, shall be exclusively in the courts of Greenville County, South Carolina.

COMPLIANCE WITH LAWS

The contractor, in the performance of work under this contract, shall fully comply with all applicable Federal, State, County, or Municipal Laws, Rules, Regulations, Ordinances, and the Americans with Disabilities Act ("ADA") and the regulations promulgated thereunder, including ADA Title II; and shall hold the City and GTA harmless from any liability resulting from failure of such compliance.

LABOR LAWS

The contractor, and all subcontractors, suppliers, and vendors, shall comply with all City, State and Federal orders regarding affirmative action to ensure equal employment opportunities and fair

employment practices. Failure to file any report due under said orders will result in suspension of periodic progress payments. The contractor shall ensure unlimited access to the job site for all equal employment opportunity compliance officers.

INDEPENDENT CONTRACTOR

Contractor shall at all times be considered an independent contractor hereunder, and neither contractor nor its subcontractors, employees, agents, or representatives shall, under any circumstances, be considered employees of City/GTA; and City/GTA shall not be legally responsible for negligence or other wrong-doing, either intentional or unintentional, by contractor or contractor's subcontractors, employees, agents or representatives. City/GTA shall not deduct from payment to contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or other amounts for benefits to contractor. Further, City shall not provide to contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by City for its employees.

ASSIGNMENT

The contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award or any or all of its rights, title, or interest therein, in whole or in part, without the prior written consent of the City/GTA.

RECORDS

The contractor shall maintain accurate and detailed books, records, correspondence and accounts relating to all parts of the project. Records shall be kept in accordance with sound generally accepted accounting principles. The City/GTA shall have the right to audit all records pertaining to the costs incurred under this contract. Such records shall be available during the term of the contract and for four (4) years after final payment under this contract.

SMALL/DISADVANTAGED/MINORITY BUSINESS ENTERPRISES PARTICIPATION

It is the policy of the City/ GTA to undertake every effort to increase opportunity for utilization of small, disadvantaged, and minority businesses in all aspects of procurement to the maximum extent feasible. In connection with the performance of this contract, the Contractor agrees to show a good faith effort to carry out this policy and insure that small, disadvantaged, and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with efficient performance of this contract.

Definitions of small, minority, handicap and woman-owned business enterprises are as follows:

- a. Small Business Enterprises are those businesses that are defined in accordance with criteria established by the United States Small Business Administration (SBA).
- b. Minority-Owned Business Enterprises are those businesses owned and controlled by one or more socially disadvantaged persons. Such persons include, but may not be limited to, Black Americans, Native Americans, Asian Americans, Hispanic Americans, American Eskimos and Aleuts.
- c. Handicap Business Enterprises are those businesses which are 51% owned and controlled by disabled persons.

- d. Woman-Owned Business Enterprises are those businesses which are 51% owned and controlled by one or more women.

It is a goal of the City/GTA to award a fair share of all contracts to small, minority, handicap, and woman-owned businesses, providing they are competitive. Accordingly, affirmative steps should also be used by contractors to assure that small, minority, handicap and woman-owned businesses are utilized whenever possible as sources for supplies, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified small, minority, handicap and woman-owned businesses on solicitation lists.
- b. Assuring that small, minority, handicap and woman-owned businesses are solicited whenever they are potential sources.
- c. When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum participation of small, minority, handicap and woman-owned businesses.
- d. When requirements permit, establishing delivery schedules which will encourage participation by small, minority, handicap and woman-owned businesses.
- e. Using the services and assistance of the U.S. Small Business Administration (SBA) and State Offices for Minority and Women Business Enterprises, as required.
- f. If any subcontracts are to be let, the City will require the prime contractor to show good faith efforts in the affirmative steps indicated above.

EMPLOYMENT DISCRIMINATION

During the performance of the contract, the successful contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin; however, some conditions may be a bonafide occupational qualification reasonably necessary for the normal operations of the contractor. The contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

CERTIFICATES AND LICENSES

The contractor shall secure and pay for licenses, permits and/or certificates that may be necessary for proper execution and completion of the contract, and which are legally required when bids are received or negotiations concluded.

INDEMNIFICATION

Notwithstanding anything herein to the contrary, contractor shall indemnify and hold City/GTA, its employees, officers, officials, contractors, agents, and/or representatives, free and harmless from and against any and all liabilities, losses, claims, demands, suits, judgments, causes of action and/or expenses of any kind or nature, including the payment of reasonable attorney's fees, resulting from property damage and/or personal injury, including death, to the extent resulting from or arising out of the negligence and/or willful misconduct of contractor under this contract. Such losses, liabilities, expenses, damages and/or claims shall include, but not be limited to, civil or criminal fines or penalties, a taking, whether direct, indirect or inverse, or for loss of use and/or service, personal injury, death, libel, slander, and attorney's fees in the underlying action through all levels of appeals. Should City/GTA be named in any suit, action or

claim under the terms hereof, then, to the extent of contractor's indemnification obligation hereunder, contractor shall appear and defend City/GTA at contractor's sole cost and expense; provided that City/GTA shall always have the option to appear and defend such action or claim on its own behalf. The foregoing indemnity shall survive the expiration or termination of this contract.

INSURANCE

The contractor shall procure and maintain insurance for the duration of this Contract against any and all claims for injuries to persons or damages to property which may in any way arise from, or in connection with, the performance of the work hereunder by the contractor, its subcontractors, agents, representatives, or employees for not less than any limits of liability shown below with a carrier authorized to do business in the State of South Carolina.

All coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful offeror.

Certificate of insurance must be included in the bid.

- a. Commercial General Liability: The contractor shall maintain insurance for protection against all claims arising from injury to person or persons not in the employ of the contractor and against all claims resulting from damage to any property due to any act or omission of the contractor, his agents, or employees in the operation of the work or the execution of this contract.

Contractor shall maintain General Liability coverage required for a period of not less than five (5) years after project completion. General Liability must include Products/Completed Operations coverage.

Where the work to be performed involves excavation or other underground work or construction, the property damage insurance provided shall cover all claims due to destruction of subsurface property such as wire, conduits, pipes, etc., caused by the contractor's operation. The minimum shall be as follows:

Bodily Injury (Injury or Accidental Death) and
Property Damage\$3,000,000 per occurrence

- b. Comprehensive Automobile Liability: The contractor shall maintain Automobile Liability Insurance for protection against all claims arising from the use of vehicles, rented vehicles, or any other vehicle in the prosecution of the work included in this contract. Such insurance shall cover the use of automobiles and trucks on and off the site of the project. The minimum amounts of Automobile Liability Insurance shall be as follows:

Bodily Injury (Injury or Accidental Death) and
Property Damage\$1,000,000 Combined Single Limit

- c. South Carolina Workers' Compensation Insurance: The contractor shall maintain Workers' Compensation Insurance for all of contractor's employees who are in any way connected with the performance under this agreement. Such insurance shall comply with all applicable state laws and provide a waiver of subrogation against City, its officers, officials, agents, and

employees.

South Carolina Workers' Compensation - Statutory Limits

- Employers Liability Insurance - \$500,000 Each Accident
- \$500,000 Disease Each Employee
- \$500,000 Disease Policy Limit

d. Professional Liability Insurance: If providing a professional service, the contractor shall maintain Professional Liability Insurance to cover errors, acts of omission by the contractor, its agents and representations in the performance of its obligations herein:

Professional Liability.....\$1,000,000 per occurrence

Contractor shall provide the City with a Certificate of Insurance showing proof of insurance acceptable to the City. Certificates containing wording that releases the insurance company from liability for non-notification of cancellation of the insurance policy are not acceptable. Certificates showing proof of such insurance shall be submitted to City prior to commencement of services under this Agreement by email to inscerts@greenvillesc.gov. Further, it shall be an affirmative obligation upon the contractor to advise City by e-mail to inscerts@greenvillesc.gov, within two days of the cancellation or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement.

The General Liability policy is to contain or be endorsed to name both the Greenville Transit Authority and the City, their officers, officials, agents and employees as additional insureds as respects the liability arising out of the activities performed under this Contract. Such coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Contractor and/or its insurers are responsible for payment of any liability arising out of Workers' Compensation, unemployment or employee benefits offered to its employees. Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII and licensed to do business in the State of South Carolina, unless otherwise acceptable to the City; and contractor shall not self-insure in satisfaction of any insurance requirement hereunder without the express, written approval of City. Contractor shall insure that its subcontractors, hereunder, comply with the insurance requirements set out herein; when requested by the City, the contractor shall agree to obtain and furnish copies of certificates of insurance evidencing coverage for each subcontractor.

Should contractor cease to have insurance as required during any time, all work by contractor pursuant to this agreement shall cease until insurance acceptable to the City is provided.

Deductibles, Co-Insurance Penalties, & Self-Insured Retention: The contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, or self-insured retention.

CITY OF GREENVILLE BUSINESS LICENSES

The contractor must obtain all business license(s) required by the Greenville City Code and Ordinances. A Business License is not required to submit a proposal. However, any firm that receives an award

under this RFP shall be required to obtain a City Business License before work can begin. For further information on the provisions of The City Business License Regulations and their applicability to this contract, contact the Greenville City Business License Division at 864-467-4504 or revenueblcontracts@greenvillesc.gov.

Contractor shall inform all of its sub-contractors and/or sub-consultants performing services hereunder that a like business license requirement applies to them, and contractor shall further disclose the names and addresses of all contractor's sub-contractors performing services hereunder to City's Business License Division at revenueblcontracts@greenvillesc.gov or 864-467-4504.

TERMINATION FOR CONVENIENCE OR CAUSE

The performance of work under the contract may be terminated by the City/GTA, in whole or in part, whenever the City/GTA determines that termination is in the City/GTA's best interest. Any such termination shall be affected by the delivery to the contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under the contract is terminated and the date upon which such termination becomes effective.

The performance of work under the contract may be terminated by the City/GTA, in whole or in part, whenever the City/GTA determines, in its sole discretion that the selected contractor is not performing as set out in the contract. If the contract is terminated for cause, the contractor shall be liable for all additional costs incurred by the City/GTA, if any, in the completion of the contract. Any such termination shall be affected by the delivery to the selected contractor of a written notice of termination at least seven (7) days before the date of termination, specifying the extent to which performance of the work under the contract is terminated and the date upon which such termination becomes effective.

After receipt of a notice of termination, except as otherwise directed, the contractor shall stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.

FORCE MAJEURE

The contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the contractor, unless otherwise specified in the contract.

NONWAIVER

Failure by the City/GTA at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the City/GTA to enforce any provision at any time in accordance with its terms.

ETHICS IN PUBLIC CONTRACTING

To comply with the provisions of Section 8-13-100 et seq. of the South Carolina Code of Laws, the bidder shall certify in writing and include with its bid that its offer was made without fraud; that it has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer, or

subcontractor in connection with the offer; and that it has not conferred on any public employee, public member, or public official having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money services, or anything of more than nominal value.

The bidder shall certify further that no relationship exists between itself and the City/GTA, another person, or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract with the City/GTA.

NONCOLLUSION AFFIDAVIT

As part of its bid, the bidder shall include the attached Non-Collusion Affidavit duly signed by a principal of the firm certifying that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any or all bids shall be rejected if there is any reason for believing that collusion exists among the offerors. The City/GTA may or may not, at its discretion, accept future bids for the same work from participants in such collusion.

NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT

Non-resident firms receiving income from business conducted in South Carolina are required to pay taxes to the state on that income. To facilitate this requirement, a nonresident firm must register with the South Carolina Secretary of State or the South Carolina Department of Revenue. In compliance with South Carolina Code Section 12-8-540 and 12-8-550, a firm located outside of South Carolina that receives a contract from the City/GTA, must furnish to the City/GTA Form I-312, Nonresident Taxpayer Registration Affidavit Income Tax Withholding, properly executed and signed. If your firm is not presently registered with the appropriate state office, you may indicate the intent to do so should your firm be awarded a contract. Questions concerning this form may be directed to the South Carolina Department of Revenue at (844) 898-8542.

COMPLIANCE WITH THE SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT

Any contractor entering into a service contract with the City/GTA must certify to the City/GTA that the contractor intends to verify any new employees' status, and require any subcontractors or sub-subcontractors performing services under the service contract to verify their new employees' status, per the terms of the South Carolina Illegal Immigration Reform Act, and as set out in Title 41, Chapter 8 of the Code of Laws of South Carolina, 1976.

CERTIFICATION OF COMPLIANCE WITH ANTI-DISCRIMINATION PROVISIONS OF SECTION 11-35-5300, CODE OF LAWS OF SOUTH CAROLINA, 1976

If this Agreement shall have a total potential value of ten thousand dollars (\$10,000.00) or more, and/or unless such goods and/or services are offered to City/GTA for at least twenty percent (20%) less than the lowest certifying business, then, by submitting your bid, Contractor hereby certifies to City/GTA that Contractor is not currently engaged in, nor will it engage in, the boycott of a person or entity based in or doing business with World Trade Organization members and/or those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations, with the understanding that Contractor's failure to make such affirmative certification will prevent the City/GTA from being able to contract with Contractor, thus affecting a rejection of your bid.

UNIFORM COMMERCIAL CODE

All sections of the Uniform Commercial Code which protect the buyer are hereby incorporated by reference in this contract.

NON-APPROPRIATION

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