

**GSATS RFP**

**Coast RTA Organizational Plan**

## INTRODUCTION

### Background

Coast RTA (Waccamaw Regional Transit Authority) is a two-county public transit authority providing fixed route and on-demand paratransit service to Horry and Georgetown counties. While Coast RTA serves all parts of the two (2) counties, as well as a route to Williamsburg County, the majority of the service focuses on the census-defined Urbanized Area (UZA). Coast RTA operates seven (7) days a week for 362 days of the year and serves over nineteen hundred (1,900) daily commuters with 10 routes. The fleet of thirty-two (32) ranges from 40-passenger buses to paratransit vans. The complimentary ADA Paratransit service operates a curb to curb, shared ride transportation service within a ¾ mile radius of any Coast RTA fixed route. Coast RTA also offers a free Entertainment Shuttle from Memorial Day through Labor Day. This shuttle service provides transportation along Ocean Boulevard to the entertainment and attractions in Downtown Myrtle Beach.

Coast RTA is in the process of developing a new Administration, Operating and Maintenance (O&M) facility. Once constructed, the new facility will afford the Authority the capability to expand to a regionally appropriate level of service. Coast RTA has recently implemented moderate service increases recently through dedicated funding from Horry County imposed fees based on a registered vehicles. Future revenue source(s) must be sustainable, enabled legislatively and robust enough to support transit expansion for the foreseeable future. The planning exercise included in this call for proposals is intended to identify transit needs, gaps in current service (including human service programs) and potential financing options that will inform the referendum campaign.

### RFP Purpose

The Grand Strand Area Transportation Study (GSATS) is the Metropolitan Planning Organization (MPO) for the Myrtle Beach-Socastee Urbanized Area (UZA). GSATS, in conjunction with Coast RTA, is soliciting proposals to provide planning to guide Coast RTA through, at a minimum, the next 20 years. Proposals will be evaluated based on the efficiency and innovation of a scope of services to address the following (in order of priority):

- 1) **Fare Structure & Technology Analysis** – The fare collection equipment on Coast RTA buses has reached a critical state of unreliability and condition. As a result, Coast RTA will be acquiring a new system for fare collection that will eliminate the need for handling cash. This study will take the capabilities of the new system and examine the range of options related to adjustment of the base fare (currently \$1.50), deep discounts, passes or the possibility of going fare-free. The proposal will consider fare media usage, average fare per boarding and transfer rate statistics from the current Genfare system.
- 2) **Transit Development Plan (TDP)** – involves a transit needs assessment, modal analysis (fixed route/demand response/vanpool), and route design for the service area with cost/benefit calculations. It is expected that this task will meet SCDOT guidelines for a TDP, encompassing the Coast RTA service area and the urbanized area which extends into Brunswick County (NC). A TDP was performed for Coast RTA in 2010 (Updated in 2014) and will be made available to potential proposers. Depending on its recommendations, the plan will include governance and contracting options for services that span across the State Line.

The Assessment will address the following:

- Rural transportation – specifically for travel to work and medical services.
- Senior transportation – (fastest growing sector of the population) regardless of trip purpose.
- Tourist transportation – the population of the Grand Strand nearly triples during the summer.

- Potential fixed guideway/rapid transit – both corridor-based and/or activity center–based.
  - Ridership and other benefits
  - Cost Estimate – Capital and Operating
  - Phase Implementation Plan based on potential funding mechanisms identified in the Financial Analysis (see below)
- 3) **Transit/Human Transportation Coordination Plan Update** – Consultant will update the current regional Coordination Plan (to be provided) and identify human service transportation gaps – geographic, temporal, programmatic, etc. The Update will include a database of transportation providers and how services can be coordinated among human service agencies and those providers.
- 4) **Regional Transit Financial Analysis** – As mentioned earlier, Coast RTA will be placing a referendum on the regional ballot as early as 2024 (more likely 2026). The selected Consultant shall assess different revenue sources or combination of revenue sources with the yield necessary to finance the long range operating plan (from the TDP). Revenue sources shall be analyzed based on yield, whether or not they are enabled legislatively, available in Horry and Georgetown Counties and have a good nexus with the provision of transit services.

Consultants shall submit proposals to the Grand Strand Area Transportation Study (GSATS) Office by no later than the date outlined under RFP Timeline.

**RFP Timeline**

<b>Tentative Date</b>	<b>Description</b>
<b>January 10, 2022 (Week of)</b>	Announcement of RFP also placed in SCIBO, and on the Coast RTA and GSATS websites.
<b>January 10, 2022 (Week of)</b>	RFP copies available to suppliers via e-mail and websites.
<b>February 14, 2022</b>	Written questions due
<b>March 7, 2022 (Week of)</b>	Written replies to questions distributed to all known parties.
<b>March 31 , 2022</b> <b>No later than 4 PM</b> <b>Late bids will not be accepted.</b>	RFP responses due at following address:  <b>GSATS</b> <b>Attn: Elizabeth Tucker</b> <b>1230 Highmarket Street</b> <b>Georgetown, SC 29440</b>
<b>Completed no later than June 14, 2022</b>	Responses will be analyzed and scored by GSATS’ evaluation team. Total scores will factor heavily into GSATS’ decision as to which parties are considered finalists
<b>To be scheduled</b>	Select vendors to be notified
<b>To be scheduled</b>	Presentation of RFP award
<b>To be scheduled</b>	GSATS’ project award is made (subject to successful negotiations of terms and conditions).
<b>February 2024</b>	Study completed

**Proposal Reviews/Selection**

A panel of experts in areas including transportation planning, SCDOT-OPT, and transit will review the proposals and be involved in the interview. All Consideration is expected to be given, but is not guaranteed to be given, to the weighted criteria listed on this page. GSATS reserves the right to reject any and all proposals, and to waive any and all formalities outlined in the RFP.

Upon notification of selection by the Selection Team, the successful respondent is required to execute and deliver a contract within two (2) weeks of notification. If the successful respondent is unwilling or unable to execute the agreement as required by the RFP, GSATS has the right to request another respondent to enter into the contract.

All dates in the RFP are subject to change at the discretion of GSATS and notice of any changes will be provided to all respondents.

### RFP INFORMATION AND INSTRUCTIONS

#### RFP Selection Team

Representative from:	Representative:
Coast RTA	Brian Piascik
GSATS, MPO Director	Mark Hoeweler
GSATS, Planner	Elizabeth Tucker
FHWA/FTA	Yolanda Morris
Georgetown County Planning	TBD
Horry County Planning	TBD

*Respondents and their agents are strictly prohibited from lobbying employees or board members of Coast RTA or GSATS policy committee members, SCDOT, or anyone connected to this RFP at any time in the application and selection process. Failure to comply with this clause shall be grounds for rejection of their RFP as non-responsive.*

#### RFP Contact

GSATS  
Attn: Elizabeth Tucker  
1230 Highmarket Street  
Georgetown, SC 29440  
843-436-6136  
etucker@wrcog.org

#### Evaluation Criteria

The Selection Team will evaluate the RFP responses received from each Consultant. If an award is made, as the result of this RFP, it shall be awarded to the respondent whose proposal is most advantageous to GSATS with price and other factors including, but not limited to, responses to the RFP questions, demonstrated technical ability and expertise, financial stability, reference calls and/or recommendations, memberships and licenses or any other applicable membership or certifications, presentations to GSATS's Evaluation Team (if applicable), on-site visits at supplier's site (if applicable), product samples which GSATS may request as part of the RFP process and any additional criteria deemed appropriate by GSATS which would lend itself to establishing the Service Provider's viability to perform the work as outlined in this RFP.

When determining whether a respondent is responsible, or when evaluating a respondent's proposal, the following factors will be considered, any one of which will suffice to determine if a respondent is either not a responsible respondent or the respondent's proposal is not the most advantageous to GSATS:

- The ability, capacity and skill of the respondent to perform the contract or provide the service required.
- The character, integrity, reputation, judgment, experience and efficiency of the respondent.
- Whether the respondent can perform the contract within the time specified.

- Cost will be considered, but not as part of the evaluation panel criteria.
- The quality of performance of previous public and private contracts including, but not limited to, the respondent's failure to perform satisfactorily, or complete any written contract. GSATS's termination for default of a previous contract, with a respondent, shall be deemed to be such a failure.
- The previous and existing compliance by the respondent with laws relating to the contract and services.
- Evidence of collusion with any other respondent, in which case colluding respondents will be restricted from submitting further bids on the subject project or future tenders.
- The respondent is not qualified for the work or to the full extent of the RFP.
- There is uncompleted work with GSATS or others, or an outstanding dispute on a previous or current contract that might hinder, negatively affect or prevent the prompt completion of the work bid upon.
- The respondent must have full standing in SAMS.
- More likely than not, the respondent will be able, financially or otherwise, to perform the work.
- Any other reason deemed proper by GSATS.

**Evaluation Criteria Chart**

Criteria	Points
Inclusion of all requested information	20
Project approach & understanding	20
Completeness of management plan	20
Clearly defined budget and financial plan	20
Team experience	20
<b>Total</b>	<b>100</b>

**Budget**

GSATS will be utilizing FTA Section 5307 funds for the consultant services. This funding will be allocated as a reimbursement to the selected Consultant team milestones.

**Deliverables**

The Study should be drafted utilizing research of best practices and should be designed so that transit agency may be able to freely utilize any portion of the Study in the service areas. GSATS therefore expects the deliverables to approximate the following:

**Implementation and Administration Guidance Materials**

- A plan or guide that will provide Coast RTA with a methodology for implementation, including guidance on how end users would adapt.
- Basic guidance on administration of the study elements, including recommended equipment, training resources and public education recommendations that are consistent with the needs in the region.

**Communications Materials**

- A PowerPoint presentation that Coast RTA and others can use during the process to educate end users.

GSATS staff will work with the Consultant Team to facilitate the process. Consultants shall also interface with designated Coast RTA staff in developing the study. This process is a two-year planning process ongoing February 2022 through February 2024.

### **Submission Requirements**

Applicants should submit seven (7) copies of a thoughtful, clear and well-organized proposal package that includes the components listed below:

Proposed Scope of Services, including the following:

- **Philosophy:** Please describe your philosophy for making the study meaningful enough to be a usable tool.
- **Methodology:** Please describe how you are going to tackle the project to create an effective tool for providing Coast RTA with an assessment of and recommendation on improving the fare box system and technology.
- **Deliverable:** Detailed description of the deliverable. Include prioritized steps to be implemented either at one (1) time or in phases as funding permits.

Please make sure you address the Selection Criteria (below).

- Proposed timeline and fee schedule with deliverables.
- Consultant team member resumes (Please tell us which team members have the following responsibilities: (1) project manager and point-of-contact and (2) key personnel outlining specific duties, and (3) who exactly will be authoring and reviewing the study and deliverables).
- A written statement acknowledging that the study you deliver will be a free resource to all communities and therefore not proprietary.
- A written statement indicating whether your firm's current or proposed employees are or have been in the past five (5) years under investigation or review by any governmental authority or similar agency. If there is any investigation or review, provide detailed information regarding the process. (Note that governmental authority means any domestic or foreign national, super national, regional, state or local government, any political subdivision thereof or any other governmental, quasi-governmental, regulatory, administrative, judicial, public or statutory instrumentality, authority, body, agency, court, department, bureau or entity.)

### **Notices and Response Material**

This RFP has been compiled in good faith. The information contained within is selective and subject to GSATS updating, expansion, revision and amendment.

GSATS reserves the right to change any aspect of, terminate, or delay the RFP, the RFP process and/or the program which is outlined within this RFP at any time and notice shall be given in a timely manner thereafter.

Recipients of this RFP are advised that nothing stated herein, or any part thereof, or any communication during this evaluation and selection process, shall be construed as constituting; offering or awarding a contract, representation or agreement of any kind between GSATS and any other party, save for a formal written contract properly executed by both parties.

Responses to this RFP will become the property of GSATS, and will form the basis of negotiations of an agreement between GSATS and the successful supplier.

GSATS is not liable and will not be responsible for any costs incurred by any supplier(s) for the preparation and delivery of the RFP responses, nor will GSATS be liable for any costs incurred prior to the execution of an agreement, including, but not limited to presentations by RFP finalists to GSATS.

During the review of this document, please note GSATS's emphasis on the expectations, qualities and

requirements necessary to be positioned as an RFP finalist and successful supplier.

Questions from respondents regarding this RFP must be submitted in writing on the question submittal form provided and returned via an attachment to an email sent to the RFP identified Single Point of Contact. Questions from respondents pertinent to this RFP will be answered so long as they are received by the day/time indicated in the RFP Timeline. Answers to all pertinent questions will be sent to all known respondents.

#### WAIVER OF MINOR ADMINISTRATIVE IRREGULARITIES

GSATS reserves the right, at its sole discretion, to waive minor administrative irregularities contained in any proposal.

#### SINGLE RESPONSE

A single response to the RFP may be deemed a failure of competition and in the best interest of GSATS the RFP may be cancelled.

#### PROPOSAL REJECTION

GSATS reserves the right to reject any or all proposals at any time without penalty.

#### WITHDRAWAL OF PROPOSALS

Suppliers may withdraw a proposal that has been submitted at any time up to the proposal closing date and time. To accomplish this, a written request, signed by an authorized representative of the supplier must be submitted to the RFP Contact. The supplier may submit another proposal at any time up to the proposal closing date and time.

#### NON-ENDORSEMENT

As a result of the selection of a supplier to supply products and/or services to GSATS, GSATS is neither endorsing nor suggesting that the supplier's product is the best, or only, solution. The supplier agrees to make no reference to GSATS in any literature, promotional material, brochures, sales presentation or the like without the express written consent of GSATS

#### PROPRIETARY PROPOSAL MATERIAL

Any information contained in the proposal that is proprietary must be clearly designated. Marking the entire proposal as proprietary will be neither accepted nor honored. If a request is made to view a supplier's proposal, GSATS will comply according to applicable Open Public Records Acts. If any information is marked as proprietary in the proposal, such information will not be made available until the affected supplier has been provided an opportunity to seek a court injunction against the requested disclosure.

#### RESPONSE PROPERTY OF GSATS

All materials submitted in response to this request become the property of GSATS. Selection or rejection of a response does not affect this right.

#### NO OBLIGATION TO PROCURE

GSATS reserves the right to refrain from contracting with any supplier. The release of this RFP does not compel GSATS to procure. GSATS may elect to proceed further with this project by interviewing suppliers well suited to our project, conducting site visits or proceeding with an award.

#### COST OF PREPARING PROPOSALS

GSATS is not liable for any costs incurred by suppliers in the preparation and presentation of proposals and demonstrations submitted in response to our RFP.

#### ERRORS IN PROPOSALS

GSATS will not be liable for any errors in supplier proposals. Suppliers will not be allowed to alter proposal documents after the deadline of proposal submission.

GSATS reserves the right to make corrections or amendments due to errors identified in proposals by GSATS or the supplier. This type of correction, or amendment, will only be allowed for such errors as typing, transposition or any other obvious error. Suppliers are liable for all errors, or omissions, contained in their proposals.

When, after the opening and tabulation of proposals, a respondent claims error and requests to be relieved of award, said respondent will be required to promptly present certified work sheets. The RFP Contact will review the work sheets and if the RFP Contact is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the respondent may be relieved from said proposal.

After opening and reading proposals, GSATS will check all for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between a price per unit and the extended amount of any proposal item the price per unit will control. GSATS will use the total of extensions corrected where necessary.

#### RESPONSE INFORMATION

For information regarding this RFP, including any addenda, contact Elizabeth Tucker at 843-436-6136 or email [etucker@wrcog.org](mailto:etucker@wrcog.org).

#### ADDENDA

Suppliers are responsible for checking GSATS's website for the issuance of any addenda prior to submitting a response. Our website address is [www.gsats.org](http://www.gsats.org).

#### CONTRACT AWARD AND EXECUTION

GSATS will select the proposal that, in its sole discretion, is the most advantageous to GSATS. GSATS also reserves the right to make an award without further discussion of the proposal submitted; there may be no best and final offer procedure. Therefore, all proposals should be initially submitted on the most favorable terms the supplier can offer.

GSATS shall attempt to negotiate a contract with the respondent who offered the most advantageous proposal at a price which GSATS determines is fair and reasonable. If GSATS is unable to negotiate a satisfactory contract with the firm selected at a price GSATS determines to be fair and reasonable, negotiations with that firm shall be formally terminated.



## LOCAL, FEDERAL & STATE CLAUSES

### Language Implied or Non-Implied

At no time shall any vendor contract language implied or non-implied supersede the language contained within this RFP, IFB, or RFQ and any appertaining local, federal or state clauses/certifications included.

### Current or Prospective Legal Matter(s)

THE PROPOSER OR BIDDER MUST PUT A STATEMENT IN THEIR OFFER AND ALL CONTRACTUAL OR ENGAGEMENT DOCUMENTATION THAT MUST BE SIGNED BY ANY REPRESENTATIVE OF GSATS ONLY ONCE OR ANNUALLY IF APPLICABLE FOR THE DURATION OF CONTRACT INDICATING:

If any current or prospective legal matter(S) EXIST OR DO NOT EXIST that may affect the Federal Government or that emerges DURING THE PERIOD OF SERVICE, INCLUDING all EXTENSIONS made THROUGH OPTIONS. This clause applies to all tiers of the Contract.

This notice requirement applies to every tier of any primary and non-primary procurement award(s) [e.g., a sub grant] of any amount and to every tier of a procurement transaction when the amount of which is expected to equal or exceed \$25,000. This requirement must be renewed annually by Vendor/Proposer in all contractual or engagement documentation each year that contractual service(s) are renewed.

### No Federal Government Obligation to Third Parties

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

### Program Fraud and False or Fraudulent Statements or Related Acts

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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) 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.

### Energy Conservation

The CONTRACTOR agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the CONTRACTOR agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

**Termination (For projects over \$10,000)**

**1. 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 Government's best interest in compliance with 49 U.S.C. Part 18/FTA Circular 4220.1F. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to AGENCY to be paid. If the CONTRACTOR has any property in its possession belonging to the AGENCY, the CONTRACTOR will account for the same, and dispose of it in the manner the AGENCY 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, 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 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 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.

**3. 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 ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If CONTRACTOR fails to remedy to AGENCY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (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.

**4. 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 term, covenant, or condition of this Contract.

**5. Termination for Convenience (Professional and/or Transit Service Contracts)**

The AGENCY, by written notice, may terminate this contract, in whole or in part, when it is in the Government'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.

**6. Termination for Convenience or Default (Architect and Engineering)**

The AGENCY may terminate this contract in whole or in part, for the AGENCY's convenience or because of the failure of the CONTRACTOR to fulfill the contract obligations. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If the termination is for the convenience of the CONTRACTOR, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the CONTRACTOR to fulfill the contract obligations, the AGENCY may complete the work by contract or otherwise and the CONTRACTOR shall be liable for any additional cost incurred by the AGENCY. 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.

### ***7. 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 the 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 the AGENCY, the CONTRACTOR shall be paid its contract close-out 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, such as strike, fire, flood, events which are not the fault of and are beyond the control of the CONTRACTOR, 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.

### **Access to Records and Reports**

#### ***1. Record Retention***

The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

#### ***2. Retention Period***

The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

#### ***3. Access to Records***

The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

#### ***4. Access to the Sites of Performance***

The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

### **Federal Changes**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Civil Rights (For Projects over \$10,000)**

The CONTRACTOR agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

#### ***1. Nondiscrimination in Federal Public Transportation Programs***

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

## ***2. Nondiscrimination – Title VI of the Civil Rights Act***

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. MDOT 3161 (10/14) § 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the CONTRACTOR agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

## ***3. Equal Employment Opportunity***

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the CONTRACTOR also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

### **A. General**

The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The 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, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship, and

### **B. Equal Employment Opportunity Requirements for Construction Activities**

For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the CONTRACTOR agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq.; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

## ***4. Nondiscrimination on the Basis of Sex***

The CONTRACTOR agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

## ***5. Nondiscrimination on the Basis of Age***

The CONTRACTOR agrees to comply with all applicable requirements of:

- A. The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing 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, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance, and
- B. The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

#### ***6. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections***

To the extent applicable, the CONTRACTOR agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 et seq., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 et seq., and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

#### ***7. Access to Services for Persons with Limited English Proficiency***

The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

#### ***8. Environmental Justice***

The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

#### ***9. Other Nondiscrimination Laws***

The CONTRACTOR agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

#### ***Incorporation of Federal Transit Administration (FTA) Terms***

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in the Federal Transit Administration (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, hereafter referenced as "CONTRACTOR" shall not perform any act, fail to perform any act, or refuse to comply with any, hereafter referenced as "CONTRACTING AGENCY," requests which would cause CONTRACTING AGENCY to be in violation of the FTA terms and conditions.

#### ***Breaches and Dispute Resolution (For Project over \$100,000)***

In compliance with 49 CFR Part 18/FTA Circular 4220.1F: Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Contracting AGENCY. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the AGENCY. In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Contracting AGENCY shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.

#### ***1. Performance during Dispute***

Unless otherwise directed by Contracting AGENCY, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved. Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the AGENCY and the CONTRACTOR arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the AGENCY is located.

#### ***2. Rights and Remedies***

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or CONTRACTOR shall constitute a waiver of any right or duty

afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**Lobbying (For Projects over \$100,000).** [SEE APPENDIX A]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or MDOT 3161 (10/14) award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the CONTRACTOR.

**Clean Air (For Project over \$100,000)**

1. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq/40 CFR 15.61/49 CFR Part 18. The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

**Clean Water Requirements (For Projects over \$100,000)**

1. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

**Fly America (For Project Overs \$150,000)**

The CONTRACTOR understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

**Patent Rights**

**1. General**

If any invention, improvement, or discovery of the CONTRACTOR or of any subcontractor, lessee, third party contractor, or other participant at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the CONTRACTOR agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

**2. Federal Rights**

The CONTRACTOR agrees that its rights and responsibilities, and those of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the CONTRACTOR agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that sub agreement, third party contract, third party subcontract, or arrangement, as specified in 35 U.S.C. §§ 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small

Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401, irrespective of the status of the CONTRACTOR, subcontractor, lessee, third party contractor or other participant in the Project (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual).

### **3. License Fees and Royalties**

FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

## **Rights in Data and Copyrights**

### **1. Definition.**

The term "subject data," as used in this Section 18 of this Master Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to, computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data," as used in this Section 18, does not include financial reports, cost analyses, or other similar information used for Project administration.

### **2. General**

The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement for the Project:

- A. Except for its own internal use, the CONTRACTOR may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the CONTRACTOR authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public, and
- B. The restrictions on publication of Subsection 18.b (1) of this Master Agreement, however, do not apply to a Grant Agreement or Cooperative Agreement with an institution of higher learning.

### **3. Federal Rights in Data and Copyrights**

The CONTRACTOR agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of this Master Agreement. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

- A. Any subject data developed under the Grant Agreement or Cooperative Agreement for the Project, or under a sub agreement, lease, third party contract or other arrangement at any tier of the Project, supported with Federal assistance derived from the Grant Agreement or Cooperative Agreement for the Project, whether or not a copyright has been obtained; and
- B. Any rights of copyright to which a CONTRACTOR, subcontractor, lessee, third party contractor, or other participant at any tier of the Project purchases ownership using Federal assistance.

### **4. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects**

In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to Project participants. Therefore, when the Project is completed, the CONTRACTOR agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the CONTRACTOR agrees to provide other reports pertaining to the Project that FTA may request. The CONTRACTOR agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA. In addition, except to the extent that FTA determines otherwise in writing, the CONTRACTOR of Federal assistance to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of this Master Agreement, FTA may make available

to any FTA CONTRACTOR, subcontractor, third party contractor, third party subcontractor or other participant at any tier of the Project, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the CONTRACTOR's use when the costs thereof are financed with Federal assistance through an FTA capital program.

**5. License Fees and Royalties.**

FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

**6. Hold Harmless.**

Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the CONTRACTOR agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the CONTRACTOR of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The CONTRACTOR shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

**7. Restrictions on Access to Patent Rights**

Nothing in Section 18 of this Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

**8. Data Developed Without Federal Funding or Support**

In connection with the Project, the CONTRACTOR may find it necessary to provide data to FTA developed without any Federal funding or support by the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with the Project. Nevertheless, the CONTRACTOR understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

**9. Requirements to Release Data**

To the extent required by U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," at 49 C.F.R. § 19.36(d), or other applicable Federal laws or Federal regulations, the CONTRACTOR understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the Freedom of Information Act (or another Federal law or Federal regulation providing access to such records).

**Debarment and Suspension**

The Recipient agrees to the following:

1. It will comply with the following requirements of 2 CFR Part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200.
2. It will not enter into any "covered transaction" (as that phrase is defined at 2 CFR §§ 180.220 and 1200.220) with any Third Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by:
  - A. U.S. DOT regulations  
"Nonprocurement Suspension and Debarment," 2 CFR Part 1200;



- B. U.S. OMB regulatory Guidance  
“Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” 2 CFR Part 180; and
- C. Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants.

3. It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 CFR Part 1200.

4. It will ensure that its Third Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.

5. If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:

- A. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement; 27;
- B. FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
- C. FTA Chief Counsel.

#### **Disadvantaged Business Enterprise**

1. To the extent authorized by Federal law, the CONTRACTOR agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

- A. The CONTRACTOR agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. Part 26.
- B. The CONTRACTOR agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any sub agreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26. The CONTRACTOR agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all sub agreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the CONTRACTOR’s DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative agreement for the Project. The CONTRACTOR agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the CONTRACTOR of the CONTRACTOR’s failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*, or both.

#### **Disadvantaged Business Enterprise Participation**

A separate contract goal of (NA) DBE participation has been established for this procurement. DBEs must be approved through the South Carolina Department of Transportation’s Unified Certification Program and a listing of current DBE firms can be located online at: <http://dbw.scdot.org/dbesearch/DirectoryQuery.aspx>.

Contractor is expected to utilize (NA) DBE cost participation throughout the entire life-span cost of this procurement. Any DBE selected must first be verified and approved by the Procurement Officer of GSATS. DBE participant information should be indicated within the proposal being submitted.

***GSATS will defer to the Coast RTA DBE program if the project costs exceed the minimum threshold requiring a DBE Program.***

***1. Contract Subletting***

Because Disadvantaged Business Enterprise (DBE) {see DBE} is not a requirement of this solicitation, GSATS does anticipate a portion of the work to be sublet. However, no portion of the contract may be assigned, sublet or transferred without the express written consent and approval of GSATS. (SEE ATTACHED APPENDIX)

***2. Approval of Subcontractors and/or Disadvantaged Business Enterprise Participation***

The management of subcontracts usually involves three areas:

- A. Assurance that the prime contractor has included the required "flow-down" provisions (clauses) from the prime contract in the subcontract.
- B. The prime contractor's compliance with the Disadvantaged Business Enterprise (DBE) requirements in its prime contract, including compliance with prompt payment requirements.
- C. Assurance that the prime contractor has selected its critical subcontractors in a prudent fashion so as to protect the recipient's program interests.

***3. Prompt Payment to Subcontractors***

The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than five (5) business days after the Contractor has received payment from the Authority. In addition, all Retainage amounts must be paid by the Contractor to the Subcontractor no later than fourteen (14) business days after the Subcontractor has, in the opinion of the VP Construction, satisfactorily completed its portion of the work. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the General Manager, Purchasing. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.

The Authority will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with the Authority of lien waivers, canceled checks (if requested), and the Contractor's sworn statement that it has complied with the prompt payment requirements. Prime Contractors must submit a prompt payment affidavit, which identifies each subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such subcontractor, with every payment request filed with the Authority, except for the first payment request, on every contract with the Authority. (See below for Prompt Payment Affidavit developed by CTA).

Failure to comply with these prompt payment requirements is a breach of the Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment. In addition, Contractor's failure to promptly pay its Subcontractors is subject to the provisions of 50 ILCS 505/9.

***Access for Individuals with Disabilities (ADA)***

The CONTRACTOR agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The CONTRACTOR also agrees to comply with all applicable provisions of section 04 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the CONTRACTOR agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations except to the extent the Federal Government determines otherwise in writing.

## **Bond Requirements**

### ***1. Bid Guarantee***

Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the RECIPIENT. The amount of such guaranty shall be equal to \$\$\$\$ or X% of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the RECIPIENT reserves the right to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of RECIPIENT.

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

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

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

### ***2. Performance Guarantee***

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

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

A bank in good standing issues it. The RECIPIENT will not accept a Letter of Credit from an entity other than a bank. It is in writing and signed by the issuing bank. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit. The RECIPIENT is identified as the Beneficiary. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars. The effective date of the Letter of Credit is the same as the effective date of the Contract. The expiration date of the Letter of Credit coincides with the term of this Agreement. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the RECIPIENT and the Contractor the work stipulated herein. The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft (similar to the attached forms contained in Sections X and Y) to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

### ***3. Payment Bonds***

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

**Sample Bond Certifications**

**Performance Guarantee Certification**

The undersigned hereby certifies that the Bidder shall provide a Performance Guarantee in accordance with the Specifications.

Designate below which form of Performance Guarantee shall be provided:

\_\_\_\_\_ Performance Bond

\_\_\_\_\_ Irrevocable Stand-By-Letter of Credit

Bidder's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Performance Bond**

KNOW ALL MEN BY THESE PRESENTS: that *Insert full name, legal title, and address of Contractor*

\_\_\_\_\_ as Principal, hereinafter called Contractor, and *Insert*

*full name, legal title, and address of Surety*

\_\_\_\_\_ as Surety, hereinafter called Surety, are held and firmly bound unto RECIPIENT as Obligee, hereinafter called Authority, in the amount of \_\_\_\_\_ Dollars (\$) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated \_\_\_\_\_, 20\_\_\_\_, entered into a contract with the RECIPIENT for Contract No. \_\_\_\_\_, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the RECIPIENT. Whenever Contractor shall be, and is declared by the RECIPIENT to be in default under the Contract, the RECIPIENT having performed RECIPIENT'S obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- A. Complete the Contract in accordance with its terms and conditions, or
- B. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the RECIPIENT elects, upon determination by the RECIPIENT and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the Authority, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the RECIPIENT to Contractor under the Contract and any amendments thereto, less the amount properly paid by the RECIPIENT to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the RECIPIENT or the heirs, executors, administrators or successors of the RECIPIENT.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

WITNESS PRINCIPAL

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (Title)

WITNESS SURETY

\_\_\_\_\_ (SEAL)

\_\_\_\_\_ (Title)

*Attach hereto proof of authority of officers or agents to sign bond*

**APPENDIX A**

**49 CFR PART 20  
CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements  
(To be submitted with each bid or offer exceeding \$100,000)

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995

(P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The CONTRACTOR, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONTRACTOR understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of CONTRACTOR's Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of CONTRACTOR's Authorized Official

## APPENDIX B

### CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS

By submitting a proposal, Offeror certifies, to the best of its knowledge and belief, that:

1. Offeror and/or any of its Principals -

- A. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
- B. Have not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of bids; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
- C. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission or any of the offenses enumerated in paragraph (i) (B) of this provision.

2. Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

- A. "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- B. Offeror will provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- C. If Offeror is unable to certify the representations stated in paragraphs (i), Offeror must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror non-responsible.
- D. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- E. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to Grand Strand Area Transportation Study (GSATS) the Procurement Officer may terminate the contract resulting from this solicitation for default.

---

Authorized Signature

---

Date



**APPENDIX C**

**SYSTEM FOR AWARD MANAGEMENT CERTIFICATION (S.A.M.)**

By submitting a proposal, Offeror certifies, to the best of its knowledge and belief, that:

\_\_\_\_\_ is duly registered on the U.S. Government's System for Award Management Certification (S.A.M)

Located online at:

[sam.gov/content/home](http://sam.gov/content/home)

This is the official site for registering to do business with the federal government. Registration on this site is free.

Help resources can be found in the SAM.gov help section or by going directly to FSD.gov. You can search the FSD knowledge base anytime or request help from an FSD agent Monday–Friday 8 a.m. to 8 p.m. ET.

Register Your Entity or Get a Unique Entity ID to get started doing business with the federal government.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

*Any Company deemed Non-Registered on S.A.M., shall not be considered for an award*

**APPENDIX D**

**VERIFICATION OF RECEIPT OF AMENDMENTS IF APPLICABLE**  
*To Be Completed by Offeror*

Must Be Completed For Any Amendments

Receipt of Amendment (if any) – Please sign, verifying receipt of all amendments.

Verify with procurement officer to ensure that all amendments have been received prior to signing.

\_\_\_\_\_  
Amendment

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Amendment

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Amendment

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

**APPENDIX E**

**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***

***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:

- A. Those prices;
- B. The intention to submit an offer; or
- C. 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.

***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 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. 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, the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

3. 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

4. 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.

5. 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.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name

**APPENDIX F**

**CERTIFICATION OF NON-COLLUSION**  
*To Be Completed By Offeror*

By submission of this Proposal, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint Proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any other matter relating to such prices with any other Proposer or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly, to any other Proposer or to any competition; and,
3. No attempt has been made or will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purposes of restricting competition.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name

*NOTARY:*

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ My commission expires \_\_\_\_\_, 20\_\_\_\_.

## APPENDIX G

### IRAN DIVESTMENT ACT

This is to alert you to the requirements of the Iran Divestment Act of 2014. On January 5, 2015, the South Carolina State Budget and Control Board, pursuant to S.C. Code Ann. 11-57-310(A)(1), published a list of persons engaged in investment activities in Iran. The list is available at the following URL:

<http://procurement.sc.gov/PS/PS-iran-divestment.phtml>

Section 11-57-310 (B) declares that any person identified on the Iran Divestment Act List is ineligible to contract with the State. Section 11-57-310 (C) provides "Any contract entered into with a person that is ineligible to contract with the State shall be void ab initio." Section 11-57-330(A) provides:

A state agency or entity, including Grand Strand Area Transportation Study (GSATS), shall require a person that attempts to contract with the State, including a contract renewal or assumption, to certify, at the time the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created pursuant to Section 11-57-310. A state agency or entity, including Grand Strand Area Transportation Study (GSATS), shall include certification information in the procurement record. Section 11-57-330(B) prohibits any State or Grand Strand Area Transportation Study (GSATS), contractor from utilizing any subcontractor identified on the Iran Divestment Act List. You may read the entire act at the following URL:

<http://www.scstatehouse.gov/code/t11c057.php>

In the meantime we have developed two new solicitation clauses, and revised a third clause, for use beginning immediately. The first new clause creates the bidder's certification he is not on the list. It is part of instructions to offerors, and must be added by amendment to all solicitations that have not yet been opened. The clause reads:

#### IRAN DIVESTMENT ACT- CERTIFICATION

(a) The Iran Divestment Act List is a list published by the Board pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL:

<http://procurement.sc.gov/PS/PS-irandivestment.phtml>

Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the Grand Strand Area Transportation Study (GSATS) to award a contract to you. (b) By signing your Offer, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Procurement Officer immediately if, at any time before posting of a final statement of award, you are added to the Iran Divestment Act List.

For solicitations that have been opened but not awarded, the successful offeror must execute a separate certification prior to award. A form for this certification is attached.

The second new clause (1) creates a duty to advise the buyer if, after award but before a renewal, a contractor is added to the list; and (2) prohibits subcontracting with persons on the list. It must be added to all open solicitations by amendment; and to solicitations that have been opened but have not yet been awarded and to any current contracts that have renewable option terms remaining, by change order or directive. It is part of the performance requirements of the contract, and appears in Section VIIA. The clause reads:

IRAN DIVESTMENT ACT - ONGOING OBLIGATIONS- (JAN 2015): (a) You must notify the procurement officer immediately if, at any time during the contract term, you are added to the Iran Divestment Act List. (b) Consistent with Section 11-57-330(B), you shall not contract with any person to perform a part of the Work, if, at the time you enter into the subcontract, that person is on the then-current version of the Iran Divestment Act List.

The final clause pertains to all open solicitations; to all contracts awarded or to be awarded pursuant to solicitations that did not include the clause; and to all current contracts, where the contract term includes renewal options. The revised clause reads:

#### TERM OF CONTRACT - OPTION TO RENEW:

(a) At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of year(s), month(s), and day(s), unless contractor receives notice that the Grand Strand Area Transportation Study (GSATS) elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award.

(b) Contractor acknowledges that, unless excused by Section 11-57-320, if the contractor is on the then-current Iran Divestment Act List as of the date of any contract renewal, the renewal will be void ab initio.

IRAN DIVESTMENT ACT OF 2014 & FEDERAL CLAUSES ADHERENCE

The Iran Divestment Act List is a list published by the South Carolina State Fiscal Accountability Authority pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL: <http://procurement.sc.gov/PS/PS-iran-divestment.phtm>(.) Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the State to award a contract to you.

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor identified below, and, as of the date of my signature, the vendor identified below is not on the current Iran Divestment Act List. I further certify that my firm shall adhere to the appertaining attached federal clauses and will additionally notify the Procurement Officer immediately if, at any time before award of a contract or acceptance of a Purchase Order for fuel, or the vendor identified below is added to the Iran Divestment Act List or is unable to adhere to the above listed federal clauses.

---

Vendor Printed Name

---

By (Authorized Signature)

---

Printed Name and Title of Individual Signing

---

Date

**APPENDIX H**

**MUST BE SUBMITTED WITH PROPOSAL**

**DBE APPROVAL CERTIFICATION**

Offeror agrees and understands that GSATS anticipates (NA) overall DBE participation in this project. GSATS will defer to the Coast RTA DBE program if the project costs exceed the minimum threshold requiring a DBE Program.

\_\_\_\_\_  
Signature of the Offeror's Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of the Offeror's Authorized Official

\_\_\_\_\_  
Title of the Offeror's Authorized Official

**APPENDIX G**

**DISADVANTAGED BUSINESS ENTERPRISE (WHEN ESTABLISHED)**

**GOOD FAITH EFFORT(S)**

The Good Faith Effort(s) documentation provided by Bidders/Offerors will assist GSATS and its Subrecipients/Subgrantees in determining whether the Bidder/Offeror has performed its due diligence, took all necessary and reasonable steps to secure DBE participation for the contract pursuant to Federal Provisions of Race Neutral Documented Good Faith Effort. GSATS will review the GFE documentation and will recommend to the Procurement Officer whether the Bidder/Offeror has made satisfactory good faith efforts to secure sufficient DBE participation to meet the contract goal. If deemed unsatisfactory effort has been made, the General Manager shall review this documentation and make the final determination of Bidder's/Offeror's meeting (or not meeting) the GFE requirements. The burden of proof rests with the Bidder/Offeror.

The bidder must document its contact with all DBE eligible firms and provide an explanation as to why or why not a DBE vendor is/is not participating. Indicate the type of contact, the date and time of the contact, the name of the person(s) contacted, and any details related to the communication. The contact must be made in sufficient time before bid submission to allow Prime Contractor to provide effective assistance. The bidder will not be considered to have made good faith efforts if the bidder failed to prove adequate effort was made to obtain DBE participation in the percentage requested. Document and retain all communications (e.g., phone, fax, email, mail) conducted with DBE firms.

Name of DBE Firm	Date of Contact	Contact's Name	Contact Number	Work Skill/Opportunity Offered

I affirm under the penalties of perjury, that the above listed contacts have been made in an attempt to obtain the Required DBE participation in the project that I am submitting an offer!

I Did \_\_\_\_\_ -or- Did Not \_\_\_\_\_ obtain the necessary DBE participation required for this project

\_\_\_\_\_  
Prime Contractor/Bidder's Company Name

\_\_\_\_\_  
Printed Name of the Authorized Signer

\_\_\_\_\_  
Title of the Authorized Signer

\_\_\_\_\_  
Authorized Signer Signature

\_\_\_\_\_  
Date