

# RFQ

Request for Qualifications for  
CHATS TRAVEL DEMAND MODEL EXPANSION

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Release Date: Monday, June 28, 2021

**Due Date: Monday, July 26 2021**  
(No later than 3:00 P.M)



The Berkeley-Charleston-Dorchester Council of Governments (BCDCOG), in association with the Charleston Area Transportation Study (CHATS) Metropolitan Planning Organization (MPO), is soliciting qualifications from transportation planning consultants to assist with expanding its current regional travel demand forecasting tool. The selected firm must be experienced in travel demand modeling and have adequate qualifications and expertise to undertake the required tasks in a timely and efficient manner in close coordination with the BCDCOG staff. ANY RESPONSE RECEIVED AFTER THE SPECIFIED TIME ON THE DUE DATE WILL BE REJECTED, CONSIDERED NONRESPONSIVE, AND WILL NOT BE OPENED.

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## 1. OVERVIEW

The Berkeley-Charleston-Dorchester Council of Governments (BCDCOG) is an association of local governments and one of South Carolina's 10 Regional Planning Councils that assists in planning for common needs of the three counties and 27 municipalities. BCDCOG in conjunction with the Charleston Area Transportation Study Metropolitan Planning Organization (CHATS MPO) is responsible for the development, maintenance, and application of the travel demand forecasting tool known as the CHATS Travel Demand Model (TDM) for the Charleston metropolitan area.

The TDM provides local staff and elected officials with current and future traffic forecasts necessary for guiding and developing the federally-mandated long-range transportation plan (LRTP), transportation improvement plan (TIP), congestion management process (CMP) and comprehensive plans; supporting key studies with regional significance such as traffic impact studies, traffic operations analyses, alternatives analysis, and transit service analysis; and providing key inputs necessary for air-quality conformity analyses and environmental impact statements as required by the National Environmental Policy Act (NEPA). Forecasts derived from the TDM also enable local policy makers to make informed decisions on investments and in drafting policies relating to the regional transportation systems.

The present extent of the TDM is approximately 2,200 square miles in size and encompasses a total area that is equivalent to 79 percent of the tri-county region. It currently excludes sparsely populated northern parts of rural Berkeley County and rural Dorchester County but accounts for all land swaths that are potentially developable and anticipated to be urbanized within the next 20 years. It is a data-driven and advanced hybrid trip-based/tour-based model, and incorporates a logit-based destination choice methodology. It combines travel demand model techniques with observed flows from passively collected Big Origin-Destination (OD) Data. The TDM uses US Census estimates for Year 2015 as the basis to represent its base year conditions while Year 2040 is designated as its horizon year conditions. Year 2020 and Year 2030 are incorporated to represent the model's interim conditions. It is developed using state-of-the-art Geographic Information System (GIS)-based transportation planning software: TransCAD® (Version 7.0 Build 12400) with an in-built user interface for ease of application and production of forecasts.

## 2. NEED FOR EXPANSION

The CHATS TDM is used primarily by the BCDCOG for purposes of preparing and updating the LRTP and TIP documents as well as providing modeling support services to jurisdictions and private organizations working on public road projects in the CHATS MPO region. It facilitates collaboration between various communities and jurisdictions to develop forward-thinking solutions. It is also often used by consultants for conducting specific traffic impact studies and environmental impact studies in the region. Over the years, the BCDCOG has continually undertaken a series of updates to the TDM in an effort to maintain and operate a good working model. However, as the Berkeley-Charleston-Dorchester region experiences new challenges and planning needs outside the MPO's purview, the TDM must also continue to grow and evolve. By bringing unmodeled rural areas under its fold, BCDCOG believes it will be able to keep pace with the tri-county's continued demographic growth and travel demand well in to the future.

BCDCOG has identified immediate opportunities for transportation planning consultants to expand the current CHATS TDM to the entire tri-county limits and incorporate enhancements to the model as

relevant and applicable. It is expected that the existing model architecture and its distinctive features, previously implemented in recognition of unique characteristics and local sensitivities of the Lowcountry, shall remain unchanged in the expanded model.

### 3. OBJECTIVE

The underlying objective for seeking professional services to expand the current TDM is to maintain a robust and an effective in-house travel demand forecasting tool for the tri-county region that is up-to-date and facilitates the ability to perform traffic simulations and scenario planning on a continual basis. To further enhance the model's capability and applicability, the following improvements are being undertaken:

- A. Account for all unmodeled rural communities of Berkeley County and Dorchester County;
- B. Revise model base scenario to reflect Year 2019 socio-economic and network conditions;
- C. Develop socio-economic and traffic forecasts for new interim years 2025 and 2035;
- D. Develop socio-economic and traffic forecasts for new Horizon Year 2045; and
- E. Establish framework for future socio-economic data revisions.

### 4. SCOPE OF WORK

The following scope of work is inclusive of all improvements presented in the preceding section and highlights the broader services expected of the consultant.

#### Task 1 Acquire Big Data and NHTS Data

Passively-collected Big Origin-Destination Data shall be procured and processed by the consultant for the new base conditions and new model limits through in-house means or third-party vendors. This data shall be consistent with the data format and specific elements incorporated in the current TDM, and also based on the revised traffic analysis zone (TAZ) structure that the BCDCOG has developed leading up to this effort. In addition, National Household Travel Survey (NHTS) data for the tri-county region shall be obtained in concert with Big Data to support calibration of key model parameters and assumptions. BCDCOG has exclusive access to the latest NHTS database and can facilitate obtaining the data for this purpose.

#### Task 2 Update Base Conditions to Year 2019

BCDCOG has developed a more-refined TAZ structure outside the limits of the current model analysis area and accompanying roadway network including zonal connectors. However, the public transit system in its present form incorporates only the CARTA routes and does not account for the rural TriCounty Link routes operated by RTMA. The consultant shall update roadway and transit networks as needed, populate socio-economic data for the revised zone structure, and verify all other key input data items as appropriate to reflect Year 2019 ground conditions. It shall rely primarily on US Census and other established resources to update base year data. BCDCOG previously procured disaggregated employment/business data by location from *InfoGroup* but due to quality concerns, it no longer prefers that data source. BCDCOG will research and identify a reliable source for employment data and transmit that information to the consultant.

### **Task 3 Perform Model Calibration and Validation**

The consultant shall perform model calibration and validation as necessary to replicate daily traffic conditions observed in Year 2019. The present measures-of-effectiveness (MOEs) shall be employed in addition to potentially new ones that the consultant deems necessary to verify the reasonableness and efficacy of the TDM. The reasonableness checks shall focus on calibrating and validating both roadway and transit forecasts as compared to the observed data (i.e., Year 2019 average daily traffic counts and Year 2019 total daily systemwide transit ridership). BCDCOG will provide count datasets or identify their sources.

### **Task 4 Develop Interim and Horizon Year Socio-Economic Data**

Community Viz, a scenario planning tool is an integral part in the development of socio-economic data (SED) in the current model. It is utilized to generate forecast data at the TAZ level for all future years based on county-level housing and employment control data. The consultant shall review and update previous control data estimates as necessary and revise source spreadsheets that generate future input data in a specific format compatible for SED allocation by Community Viz. BCDCOG performs SED allocation using Community Viz and the consultant is encouraged to engage City Explained, Inc., the developer of the tool in the generation of interim and horizon year SED estimates at the TAZ level. Years 2025 and 2035 will represent interim conditions and Year 2045 will represent new horizon conditions.

### **Task 5 Establish Framework for Future Socio-Economic Data Manipulation**

Although the process of importing SED estimates from Community Viz in to the current TDM is fully-automated via the model interface applications, the scenario planning tool – key components of which were previously updated specifically for purposes of this model - requires manual intervention at the TAZ level to account for committed developments. It leaves room for potential errors and the existing tool therefore may warrant coordination with the BCDCOG staff and/or City Explained to incorporate a committed development module to allow for near-term socio-economic growth allocation. The consultant shall establish a user-friendly framework for easy manipulation of proposed developmental intensities through this module.

At the conclusion of the TDM Expansion efforts, the consultant will appropriately document all modifications to the current forecasting tool and prepare a draft technical report for submission to the BCDCOG. Any comments and suggestions by the agency staff to the draft report shall be fully addressed and incorporated in the final technical report. The consultant will submit all files associated with this effort electronically to the BCDCOG. Up to three hard copies of the final documentation may be submitted up on request. Also, the consultant shall organize and conduct one hands-on training class for select agency staff to familiarize with the inner workings of the expanded TDM.

## **5. SCHEDULE**

Responders to this RFQ are invited to submit a detailed description of tasks, deliverables, and schedules. Scheduling of the project tasks may be negotiated during the contract discussions by the selected consultant and the BCDCOG staff. Notice to Proceed (NTP) for this project will be given as soon as a contract with the consultant has been executed and all state and federal requirements are met. The consultant must agree to begin work upon issuance of the NTP by the BCDCOG.

## 6. QUALIFICATIONS

The consultant must demonstrate qualifications in the area of travel demand modeling including Big Data incorporation/application, model development, and re-calibrating/-validating existing MPO models. The staff assigned to the project must have sound knowledge and experience in transportation modeling, specifically working with TransCAD® software system and land use/scenario planning tools such as Community Viz. The qualifications should provide specifics on the experience of the staff assigned to key tasks including level of involvement and names of contact persons in similar or comparable projects.

## 7. SELECTION CRITERIA & PROCESS

All qualifications received shall be evaluated against established criteria by a Consultant Selection Committee at the BCDCOG, assisted by other technical personnel as deemed appropriate for the purpose of selecting the consultant with whom a contract will be executed. BCDCOG reserves the right to reject any and all qualifications in whole or in part if in the judgment of the Consultant Selection Committee the best interest of all parties will be served.

The following are the criteria and weight of consideration in evaluating the qualifications:

**Understanding the Need / 20 Points** – The consultant must demonstrate a clear and thorough understanding of the need to undertake the aforementioned enhancements to the CHATS TDM.

**Method of Approach / 30 Points** – The consultant must include a detailed methodology and the type of deliverables under each task presented in the RFQ. Evaluation will be based on comprehensiveness and completeness of the proposed approach and deliverables.

**Technical Expertise / 25 Points** – The consultant must demonstrate past performance and provide specific examples of similar or comparable projects that either met or exceeded industry standards.

**Key Staff / 20 Points** – The consultant must highlight relevant experience and qualifications of key personnel to be assigned to this particular effort and their degree of availability and involvement in each task.

**DBE Participation / 5 Points** – Evaluation shall be based on extent and participation of certified Disadvantaged Business Enterprises (DBEs) that the consultant plans to involve to perform the tasks of this RFQ.

## 8. SUBMITTAL FORMAT

The submittal of technical qualifications from the consultant shall include the following elements at a minimum. However, the consultant is permitted and encouraged to include any additional material that is deemed appropriate and pertinent to assist the BCDCOG in its decision.

- a) Letter of Interest
- b) Qualifications of Firm
- c) Understanding of Project
- d) Method of Approach
- e) Key Personnel including CVs
- f) Relevant Project Material

## g) Schedule

Changes in the consultant key personnel during the 90 days following the date of receipt from what is identified in the RFQ will be considered a change of scope and will be grounds for rejection of the qualifications. The consultant is requested to list all current or anticipated assignments of the staff proposed for this effort and their individual percent availability. BCDCOG reserves the right to contact a firm to obtain written clarification of information submitted and to contact any references to obtain information regarding performance reliability and integrity.

All qualifications shall be submitted in a sealed envelope. The outside of the package shall be marked “Request for Qualifications – CHATS Travel Demand Model Expansion”. **The consultant must mail one (1) original, one (1) digital and three (3) hard copies of the final submittal to:**

JASON MCGARRY  
Procurement/Contracts Administrator  
Berkeley-Charleston-Dorchester Council of Governments  
5790 Casper Padgett Way  
North Charleston, SC 29406

**All submittals must be received no later than 3:00 PM on Monday, July 26, 2021.** Any submittal received after the date and time specified will be rejected, considered non-responsive, and will not be opened.

All questions and requests for clarification must be submitted in writing no later than 3:00 PM on Friday, July 9, 2021 to [jasonm@bcdcog.com](mailto:jasonm@bcdcog.com). Addenda to this RFQ, including responses to questions and any modifications will be posted on the BCDCOG website at [www.bcdcog.com](http://www.bcdcog.com).

## 9. ADDITIONAL INFORMATION

The consultant will coordinate with the BCDCOG staff in identifying and obtaining all relevant datasets and files related to this effort after formally executing the contract and receiving an NTP. BCDCOG will ensure that all model files especially revised traffic analysis zones, master highway network, and master transit network are accurate and compatible to the extent possible. However, the consultant will be obligated to undertake additional quality control checks of key files as warranted prior to implementing improvements. The BCDCOG staff will be available to work closely with the consultant to provide assistance to the consultant as needed.

BCDCOG retains the right to reject all qualifications received and to re-solicit them if deemed to be in its best interests. Selection is also dependent on the execution of a mutually acceptable contract with the successful consultant. Each consultant shall state that its qualifications are valid for a period of not less than ninety (90) days from the date of receipt. All survey data, model files, spreadsheets, maps, reports, and correspondence will be transmitted to and owned by the BCDCOG at the conclusion of this effort. Final payment will not be made to the consultant until the initiative is completed to the satisfaction of the BCDCOG staff.

All responders must visibly mark as “CONFIDENTIAL” each part of their submission that they consider to contain proprietary information the release of which would constitute an unreasonable invasion of

privacy. All unmarked pages will be subject to release in accordance with law. Proposer should be prepared, upon request, to provide justification of why such materials should not be disclosed under the South Carolina Freedom of Information Act, S.C. Code Section 30-4-10, et seq.

Federal funds received by the BCDCOG will be used as a component of the overall funding of this project. Accordingly, the selected consultant will be required to comply with all applicable Federal regulations and contracting provisions required by the federal funding authority, including 49 CFR Part 31 – Allowable Costs, Civil Rights, Minority Business Enterprise, and other applicable assurance provisions. Consultants and sub-consultants shall comply with FHWA Order 4470.1A “Certification of Indirect Costs” in Accordance with FAR. Additionally, the procurement must comply with state and local requirements applicable to such procurement process and contracts. BCDCOG strongly encourages the use and involvement of DBEs on this project.

## **10.SIGNATURE REQUIREMENTS**

Qualifications must be signed by a duly authorized official of the responder. Consortia, joint ventures, or teams submitting qualifications, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or one legal entity, which shall not be a subsidiary or affiliate with limited resources. Each response should indicate the entity responsible for execution on behalf of the proposed team.

## APPENDIX – Federal Required Clauses

### 1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

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

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

### 2. FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD

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

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FHWA under the authority of 49 U.S.C. § 5307, the government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extend the Federal Government deems appropriate.

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

### 3. ACCESS TO THIRD PARTY CONTRACT RECORDS

(a) The Consultant shall permit the authorized representatives of the Authority, the U.S. Department of Transportation and the Comptroller General of the United States to inspect and audit all data and records of the Consultant relating to his performance under the contract until the expiration of three years after final payment under this contract.

(b) The Consultant further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Authority, the Department of Transportation and Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration

of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, paper and records of such subcontractor, involving transactions related to the subcontractor. The term "subcontract" as used in this clause excludes purchase orders not exceeding \$10,000.

(c) The periods of access and examination described above, for records which relate to (1) litigation of the settlement of claims arising out of the performance of this contract, or (2) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.

#### 4. CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times comply with all applicable FHWA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FHWA, 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 contract.

#### 5. TERMINATION

##### a. Termination for Convenience

The Recipient may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Recipient's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination.

The Contractor shall promptly submit its termination claim to Recipient to be paid the Contractor. If the Contractor has any property in its possession belonging to the Recipient, the Contractor will account for the same, and dispose of it in the manner the Recipient directs.

##### b. Termination for Default

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 Recipient 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

#### 6. CIVIL RIGHTS

Nondiscrimination - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FHWA may issue.

##### Equal Employment Opportunity

1. Race, Color, Creed, National Origin, Sex - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal

Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 ET SEQ. (which implement Executive Order No 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.
3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

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

#### 7. DISADVANTAGED BUSINESS ENTERPRISES

The Department of Transportation of the United States Government has, as a matter of policy, determined that grantees and their contractors shall endeavor to expend project funds with qualified disadvantaged business enterprises, as subcontractors, located within a reasonable trade area determined in relation to the matter of services or supplies intended to be procured. FHWA encourages award of this solicitation, or any portion thereof, to contractors and/or suppliers, who qualify as Disadvantaged Business Enterprises (DBE) as defined by FHWA.

- (a) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26; Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- (b) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

- (c) The prime contractor is required to pay each subcontractor under this contract for satisfactory performance of its contracts no later than thirty (30) days from receipt of each payment received by the Agency. Any delay or postponement of payment between prime and sub-contractors may take place only for good cause, and with prior written approval. A list of certified DBEs can be found at: <https://www.scdot.org/business/bus-development-dbe-sbe-cert.aspx>

#### 8. INCORPORATION OF FHWA TERMS & LEGAL MATTERS

The provisions of this Addendum include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FHWA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FHWA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause firm to be in violation of the FHWA terms and conditions. The Contractor also agrees to include any applicable requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FHWA.

##### NOTICE OF LEGAL MATTERS

Notice of Legal Matters. If this project is federally funded and is expected to equal or exceed \$25,000, BCDCOG agrees to notify the FHWA Chief Counsel or FHWA Regional IV legal counsel of a current or prospective legal matter that may affect the Federal government. Contractor agrees this affirmative notification provision will apply to subcontractors and suppliers and is to be included in all agreements at all tiers. Failure to include this notice may be deemed a material breach of contract.

#### 9. DEBARMENT AND SUSPENSION

This contract is a covered transaction for purposes of 49 CFR Part 29 if it equals or exceeds \$25,000.00. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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

The certification in this clause is a material representation of fact relied upon by Recipient. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### 10. RESOLUTION OF 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 Recipient. 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.

- a. Performance During Dispute - Unless otherwise directed by Recipient, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

- b. 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 therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- c. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Recipient 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 Recipient is located.
- d. 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 Recipient 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.

## 11. LOBBYING

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 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 award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

## 12. CLEAN AIR

(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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FHWA 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 FHWA

## 13. CLEAN WATER

(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 Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FHWA 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 FHWA.

#### 14. VETERANS PREFERENCE

The Contractor will give a hiring preference, to the extent practicable, to veterans (as defined in 5 U.S.C Section 2108) who have the requisite skills and abilities to perform the construction work required under this contract. This provision shall not be understood, construed, or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with disability, or former employee

#### 15. PROMPT PAYMENT

The Contractor agrees to pay subcontractors within ten (10) calendar days of the Contractors receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The Contractor agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of completion of the work, regardless of whether the Contractor has received any retainage payment from BCDCOG. The Contractor shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the BCDCOG. The Contractor agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The Contractor will not be reimbursed for work performed by subcontractors unless and until the Contractor ensures that subcontractors are promptly paid for work, they have performed. Failure to comply with the provisions of this Section 14.2 may result in the BCDCOG finding the Contractor in noncompliance with the DBE provisions of this Contract.

#### 16. ENERGY CONSERVATION

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act.

#### 17. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

National Intelligent Transportation Systems Architecture and Standards. To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. section 502 note, and to comply with FHWA Notice, "National ITS Architecture Policy" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other Federal requirements that may be issued.

#### 18. NOTIFICATION OF LEGAL MATTERS AFFECTING THE FEDERAL GOVERNMENT

The contractor is required to promptly notify the BCDCOG of any current or prospective legal matters that may affect the BCDCOG and/or the Federal government. The FHWA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming of the Federal government as a party to litigation or a legal disagreement in any forum for any reason. This notification requirement shall flow down to subcontracts and/or sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

### CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_, hereby certify (Name and title of official)

On behalf of \_\_\_\_\_ that: (Name of Bidder/Company Name)

- 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 any agency, a Member of Congress, and 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.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name \_\_\_\_\_

Type or print name \_\_\_\_\_

Signature of Authorized representative \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

Signature of notary and SEAL \_\_\_\_\_

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## GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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**Instructions for Certification:** By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
2. To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
  - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
    1. Debarred
    2. Suspended
    3. Proposed for debarment
    4. Declared ineligible
    5. Voluntarily excluded
    6. Disqualified
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    2. Violation of any Federal or State antitrust statute, or
    3. Proposed for debarment commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
  - f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
    1. Equals or exceeds \$25,000,
    2. Is for audit services, or
    3. Requires the consent of a Federal official, and
  - g. It will require that each covered lower tier contractor and subcontractor:
    1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
    2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
      - a. Debarred from participation in its federally funded Project,
      - b. Suspended from participation in its federally funded Project,
      - c. Proposed for debarment from participation in its federally funded Project,
      - d. Declared ineligible to participate in its federally funded Project,
      - e. Voluntarily excluded from participation in its federally funded Project, or
      - f. Disqualified from participation in its federally funded Project, and
3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

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### **Certification**

Contractor \_\_\_\_\_  
 Signature of Authorized Official \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_\_  
 Name and Title of Contractor's Authorized Official \_\_\_\_\_

**Disadvantaged Business Enterprise (DBE) Certification**

Has your firm been certified by the state of South Carolina as a Disadvantaged Business Enterprise?  
\_\_\_\_\_Yes                      \_\_\_\_\_No

If no, has your firm been certified by any other US State, Territory or Protectorate as a Disadvantaged Business Enterprise?  
\_\_\_\_\_Yes                      \_\_\_\_\_No

If yes, attach copy of current certification letter.

I hereby certify that the information provided on this form is true and accurate to the best of my knowledge

Firm/Organization: \_\_\_\_\_

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

Name & Title: \_\_\_\_\_

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