


**COVER PAGE**  
(Return Cover Page with Your Offer)

	<b>Pee Dee Regional Transportation Authority (PDRTA)</b>  <b>Request for Proposal Advertisement #63236</b>	<b>Solicitation Number: 013026</b> <b>Date Issued: January 30, 2026</b> <b>Procurement Manager: Rachel McMillian</b> <b>Phone: (843)-519-0885</b> <b>Email Address: <a href="mailto:procurement@pdrta.org">procurement@pdrta.org</a></b> <b>Mailing Address: 313 S. Stadium Rd., Florence, SC 29506</b>
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<b>DESCRIPTION</b>	Pee Dee Regional Transportation Authority (PDRTA) is requesting pricing from qualified vendors with experience in providing and installing on-board automatic passenger counter (APC) systems for a mixed fleet of low-floor heavy duty buses and cutaways.
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<b>CONFERENCE TYPE: Optional</b> <b>DATE AND TIME: February 6, 2026 at 10:00 a.m. (EST)</b> <b>LOCATION: Virtual via Zoom</b>  (As appropriate, see “Conferences – Pre-Bid Meeting” provisions)	<b>QUESTIONS DUE: February 13, 2026</b>  (See “Questions from Offeror” provision)
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<b>OFFERS</b>	<b>Submit Offer by: March 10, 2026 by 2:00 p.m. (EST)</b> (See “Deadline for Submission of Offer” provision)  Offers can be emailed to <a href="mailto:procurement@pdrta.org">procurement@pdrta.org</a> before the deadline. Offers can be mailed to: <b>Pee Dee Regional Transportation Authority (PDRTA), ATTN: Purchasing Manager, 313 S. Stadium Road, Florence, SC 29506.</b> Mailed offers must be submitted in a sealed package with the solicitation number and opening date appearing on the package exterior.
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<b>AWARD &amp; AMENDMENTS</b>	Award will be posted on or before April 1, 2026. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: <a href="https://pdrta.org/business/procurement">https://pdrta.org/business/procurement</a>
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You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, you agree to be bound by the terms and conditions of the Solicitation. You certify that this bid is made without prior understanding, agreement, connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. You agree to hold Your Offer open for a minimum of ninety (90) calendar days after the Opening Date. (See “Signing Your Offer” provision)		
<b>NAME OF OFFEROR</b>  (Full legal name of business submitting the offer)		Any award issued will be issued to, and the contract formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
<b>AUTHORIZED SIGNATURE</b>  (Person must be authorized to submit a binding offer to contract on behalf of Offeror)		<b>TAXPAYER IDENTIFICATION NO.</b>  (See “Taxpayer Identification Number” provision)
<b>TITLE</b>  (Business title of person signing above)		<b>STATE VENDOR NO.</b>  (Register to Obtain S.C. Vendor No. at <a href="http://www.procurement.sc.gov">www.procurement.sc.gov</a> )
<b>PRINTED NAME</b>  (Printed name of person signing above)	<b>DATE SIGNED</b>	<b>STATE OF INCORPORATION</b>  (If you are a corporation, identify the state of incorporation)

**PAGE TWO**  
**(Return Page Two with Your Offer)**

**OFFEROR'S TYPE OF ENTITY:** (Circle one)

Sole Proprietorship      Partnership      Corporate Entity (not tax-exempt)      Corporation (tax-exempt)  
Government Entity (Federal, State or Local)      Other

**HOME OFFICE ADDRESS**

(Address for Offeror's home office/principal place of business)

**NOTICE ADDRESS**

**Phone Number (with Extension):**  
**Fascimile:**  
**Email Address:**

(Address to which all procurement and contract-related notices should be sent.) (See "Notice" clause)

**PAYMENT ADDRESS**

**Payment Address same as Home Office Address: \_\_\_\_\_**  
**Payment Address same as Notice Address: \_\_\_\_\_**

(Address to which payments will be sent.) (See "Payment" clause)

**ORDER ADDRESS**

**Order Address same as Home Office Address: \_\_\_\_\_**  
**Order Address same as Notice Address: \_\_\_\_\_**

(Address to which purchase orders will be sent.) (See "Purchase Orders" and Contract Documents" clauses)

**ACKNOWLEDGEMENT OF AMENDMENTS**

Offerors acknowledge receipt of amendments by indicating amendment number and its date of issue.  
(See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

<b>DISCOUNT FOR PROMPT PAYMENT</b> ("See Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	____ Calendar Days (%)
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## **1. SCOPE OF SOLICITATION**

PDRTA is requesting proposals from qualified vendors with experience with providing and installing on-board Automatic Passenger Counter (APC) Systems for a mixed fleet of low-floor heavy-duty buses and cutaways. Historically, passenger counts have been tracked manually by drivers, a method that is prone to human error. To enhance customer service, improve data accuracy, ensure compliance with reporting requirements, and strengthen operational accountability, PDRTA aims to implement an APC solution that supports more efficient and effective transit service delivery.

Maximum Contract Period: Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled “Term of Contract – Effective Date/Initial Contract Period.”

Start Date: April 1, 2026

End Date: March 31, 2031

## **2. INSTRUCTIONS TO OFFERORS**

### **2A. GENERAL INSTRUCTIONS**

#### **DEFINITIONS, CAPITALIZATION, AND HEADINGS**

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND WILL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS APPLY TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

AUTHORITY means the Pee Dee Regional Transportation Authority Board of Directors.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

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

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled “Changes,” if included herein, authorizes the Procurement Officer to order without the consent of the contractor.

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

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

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

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

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

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

STATE means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

USING GOVERNMENTAL UNIT means Pee Dee Regional Transportation Authority.

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

#### **Amendments to Solicitation**

1. The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following website for the issuance of Amendments: <https://pdrta.org/business/procurement>
2. Offerors shall acknowledge receipt of any amendment to this solicitation:
  - a. By signing and returning the amendment,
  - b. By identifying the amendment number and date in the space provided for this purpose on Page Two,
  - c. By letter, or
  - d. By submitting a bid that indicates in some way that the bidder received the amendment.
3. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

#### **Authorized Agent**

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

#### **Award Notification**

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, the most recent notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value more than one hundred thousand dollars, such notice will be sent electronically to all Offerors responding to the Solicitation. Unless a written notice of intent to protest is timely filed pursuant to Section 11-35-4210(1)(b) or the award is otherwise suspended or canceled, the award will be effective on the calendar day (including weekends and holidays) immediately following the seventh business day after such notice is given, unless otherwise specified in writing.

#### **Bid/Proposal as Offer to Contract**

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

#### **Bid Acceptance Period**

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

#### **Bid in English & Dollars**

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

#### **Certificate of Independent Price Determination**

- A. 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.
- B. Each signature on the offer is considered to be a certification by the signatory that the signatory:
1. Is the person in the offeror's organization responsible for determining the prices being offered in this 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.
  3. As an authorized agent, does certify that the principals referenced in subdivision (b)(2) 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.

#### **Certification Regarding Debarment and Other Responsibility Matters**

By submitting an Offer, 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 offer, been convicted of or had a civil judgement 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 offers; 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 of any of the offenses enumerated in paragraph (1)(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.
3. "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).
4. Offeror shall 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.
5. If offeror is unable to certify the representations stated in paragraphs (1), 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 nonresponsible.
6. 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 (1) 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.
7. The certification in paragraph (1) 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, the Procurement Officer may terminate the contract resulting from this solicitation for default.

#### **Code of Laws Available**

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at: <http://www.scstatehouse.gov/code/statmast.php>. The South Carolina Regulations are available at: <http://www.scstatehouse.gov/coderegs/statmast.php>.

#### **Disclosure of Conflicts of Interest or Unfair Competitive Advantage**

1. You certify that, after reasonable inquiry, to the best of your knowledge and belief:
  - a. Your Offer identifies any services that relate to either this solicitation or the work and that have already been performed by you, a proposed subcontractor, or an affiliated business of consultant of either; and
  - b. There are no relevant facts or circumstances that may give rise to an actual or potential organizational conflict of interest, as defined in S.C. Code Ann. Reg. 19-445.2127, or that your Offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award.
2. If You, a proposed subcontractor, or an affiliated business or consultant of either, have an unfair competitive advantage or an actual or potential conflict of interest, We may withhold award. Before withholding award on these grounds, We will notify you to respond. We may consider efforts to avoid or mitigate such concerns, including restrictions on future activities.
3. The certification in paragraph (1) of this provision is a material representation of fact upon which We will rely when considering Your Offer or award.

#### **Disclosure of Your Bid/Proposal & Submitting Confidential Data**

1. According to Section 11-35-410, any person submitting a document in response or with regard to any solicitation or other request must “comply with instructions provided in the solicitation for making information exempt from public disclosure. Information not marked as required by the applicable instructions may be disclosed to the public.” If you identify your entire response as exempt from public disclosure, or if you do not submit a redacted copy as required, PDRTA may, in its sole discretion, determine Your Bid or Proposal nonresponsive and ineligible for award.
2. By submitting a response to this solicitation or request, Offeror:
  - a. Agrees to the public disclosure of every page, or portion thereof, of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page, or portion thereof, was redacted and conspicuously marked “Trade Secret” or “Confidential” or “Protected,”
  - b. Agrees that any information not redacted and marked, as required by these bidding instruction, as a “Trade Secret” is not a trade secret as defined by the Trade Secrets Act, and
  - c. Agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure.
3. If Your Offer includes any information that you claim is exempt from public disclosure, you must submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). Except for the information removed or concealed, the redacted copy must be identical to your original offer.
4. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If only portions of a page are subject to some protection, do not redact the entire page. The redacted copy must reflect the same pagination at the original and show the empty space from which information was redacted. The Procurement Officer must be able to view, search, copy, and print the redacted copy without a password. If your response, or any part thereof, is improperly marked confidential or trade secret or protected, PDRTA may, in its sole discretion, determine it nonresponsive.
5. On the redacted copy, you must identify the basis of your claim by marking each redaction as follows:
  - a. You must separately mark with the word “CONFIDENTIAL” every page, or portion thereof that you redacted and claim as exempt from public disclosure because it is either
    - i. A trade secret as defined in Section 30-4-40 (a)(1) of the Freedom of Information Act, or
    - ii. Privileged and confidential, as that phrase is used in Section 11-35-410.

- b. You must separately mark with the words “TRADE SECRET” every page, or portion thereof, that you redacted and claim as exempt from public disclosure as a trade secret pursuant to Section 39-8-20 of the Trade Secrets Act.
  - c. You must separately mark with the word “PROTECTED” every page, or portion thereof, that you redacted and claim as exempt from public disclosure pursuant to Section 11-35-1810.
- 6. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text.
- 7. In determining whether to release documents, PDRTA will detrimentally rely on your redaction and marking of documents, as required by these bidding instructions, as being either “Confidential” or “Trade Secret” or “Protected.” By submitting a response, you agree to defend, indemnify, and hold harmless PDRTA, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney’s fees, arising out of or resulting from withholding information that you have redacted or marked as “Confidential” or “Trade Secret” or “Protected.”

#### **Deadline for Submission of Offer**

Any offer received after the Procurement Officer of the Using Governmental Unit or his designee has declared that the time set for Offers due has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body’s mail room which services that purchasing office prior to the deadline.

#### **Drug Free Workplace Certification**

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

#### **Duty to Inquire**

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror’s risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the Using Governmental Unit’s attention. See clause entitled “Questions from Offerors.”

#### **Ethics Certificate**

By submitting an Offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public officials with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The Using Governmental Entity may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement office at the same time the law requires the statement to be filed.

#### **Multiple Offers**

Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate Offer must be submitted or uploaded as a separate document and must clearly indicate that it is a separate offer. If this solicitation is a Request for Proposals, multiple offers may be submitted or uploaded as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

#### **Omit Taxes from Price**

Do not include any sales or use taxes in Your price that PDRTA may be required to pay.

### **Open Trade Representation**

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

### **PDRTA Office Closings**

If an emergency or unanticipated event interrupts normal business processes so that offers cannot be received at the PDRTA office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first business day on which normal business processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If PDRTA offices or the pre-bid location is closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment may be issued to reschedule the conference.

### **Pricing**

1. **Fixed Price:** If a fixed price is required, award will not be made on an Offer if the total possible price to the Using Governmental Unit cannot be determined.
2. **Price Reasonableness:** Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.
3. **Unbalanced Pricing:** The Using Governmental Unit will analyze all offers with separately priced line items or subline line items to determine if the prices are unbalanced. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly over or understated. The responsible Procurement Officer may reject an offer as unreasonably priced if she determines that unbalanced pricing increases performance risk (e.g., it is so unbalanced as to be tantamount to allowing an advance payment) or could result in payment of unreasonably high prices.

### **Protests**

1. **Submittal Procedures**
  - a. An interested party wishing to protest a matter involving a proposed procurement or contract award shall file a written submission with the Procurement Manager by certified mail. Electronic submission of protests is not acceptable. The protest shall include, at a minimum:
    - i. The name and address of the protesting party and its relationship to the procurement sufficient to establish that the protest is being filed by an interested party
    - ii. Identity of the contract person for the protestor, including name, title, address, telephone, and email address. If the contact point is a third party representing the protestor, the same information must be provided, plus a statement defining the relationship between the protestor and the third party
    - iii. Identification of the procurement (solicitation, contract #, project description)
    - iv. A description of the nature of the protest, referencing the portion(s) of the solicitation involved
    - v. Identification of the provision(s) of any law, regulation, or other governance upon which the protest is based
    - vi. A statement of the specific relief requested
    - vii. Any documents relevant to the protest
  - b. The Procurement Manager shall be responsible for overseeing the decision process. The Procurement Manager shall ensure that all relevant parties within PDRTA have been involved in the decision-making process. PDRTA may decide a protest solely upon the written submission. The protest submission should, therefore, include all materials necessary to support the protestor's position. Additional or supplemental materials may only be submitted at the request of, or with the permission of, the Purchasing Manager.
2. **Pre-Bid and Pre-Award Protest Procedures**
  - a. A protest related to the technical scope or specification, terms, conditions, or form of a solicitation must be received no later than 15 business days prior to the date established for opening bids or receipt of proposals; if the protest addresses an amendment to the solicitation, it must be received no later than ten (10) business days prior to the date established for opening bids or receipt of



proposals or five (5) business days after the date of issuance of the amendment, whichever is later; in no event may a protest of this nature be submitted after bids or proposals are received. The protest must conform in all respects to the requirements set forth above.

- b. Within 15 business days of the receipt of such a written protest, the Procurement Manager shall hold a hearing on the protest. Protests will be considered and either denied or sustained, in part or in whole, by the Procurement Manager in writing. The Procurement Manager's decision shall be final.
        - c. Should the protest be sustained in whole or in part, the Procurement Manager may either (1) amend the solicitation to correct the document or process; or (2) cancel the solicitation in its entirety. If the solicitation is amended, the time for receipt of bids or proposals may be equitably extended to permit all participants to revise their bids or proposals to reflect the decision if deemed necessary. If the protest is denied, the solicitation shall proceed as if the protest had not been filed, unless the protestor appeals the decision of the Purchasing Manager, as defined below.
3. Post-Award Protest Procedures
  - a. All bidders/proposers will be notified of an intent of award. This notice will be transmitted to each proposer at the email address contained in its proposal form and shall be posted on the procurement page of PDRTA's website. Any proposer whose proposal is valid at the time of the determination may protest the intent of award on one or more of the following grounds:
    - i. That the recommended awardee does not meet the requirements of the solicitation
    - ii. That the evaluation process conducted by PDRTA is improper, illegal, or the decision of the intent of award is arbitrary and capricious.
  - b. The protest must conform in all respects to the requirements set forth above.
  - c. The protest must be submitted to the Procurement Manager no later than ten (10) business days of the purchase being awarded. A written decision stating the grounds for allowing or denying the protest will be mailed to the protestor at the address provided or otherwise furnished. The Procurement Manager's decision shall be final.
4. Evaluation of Protests
  - a. A protest decision will be submitted to the protestor within ten (10) business days of receipt of the protest. The Procurement Manager may extend the response period if additional time is required to gather and evaluate information necessary for the decision or for other good cause.
  - b. Upon receipt of a protest, the Procurement Manager shall notify parties involved in the procurement. The Procurement Manager may request additional written information from the protestor or other parties, as necessary, to determine the validity of the protest. A hearing may be held with the parties involved in the procurement, Executive Director, or Board of Directors as deemed necessary.
  - c. The Procurement Manager shall prepare a decision on the protest. The decision will contain four parts:
    - i. Summary: Describes briefly the protesting party, the solicitation involved, the issue(s) raised, and the decision.
    - ii. Background: Describes in more detail the history of the solicitation and the procurement events leading to the protest, the date the protest was received, and the process by which it was evaluated.
    - iii. Discussion: Identifies the issue or issues raised by the protester, and the factors considered in reaching a decision, and the rationale for the decision.
    - iv. Determination: States the decision and any remedy or subsequent action resulting from it.
  - d. Decisions shall be signed and issued by the Procurement Manager. For procurements greater than \$100,000, the decision shall also be signed by the Executive Director. The decision shall be issued to the protestor.
  - e. In the event of a timely protest, PDRTA shall not proceed further with the award of the contract until after the protest period has ended and the final decision shared with the protestor.
5. Appeals
  - a. Decisions of the Procurement Manager or Executive Director may be appealed to the Board of Directors by the protestor within five (5) business days after the decision is issued to the protestor. The appeal shall be in writing, addressed to the Executive Director and shall state the basis for the appeal. Requests for an appeal to the Board of Directors shall be held during the next occurring regularly scheduled meeting of the Board of Directors, or such other time as may be mutually

agreeable to the parties. At the meeting, the aggrieved party and the Executive Director shall have an opportunity to present their findings to the Board of Directors. Upon receipt of the findings of both parties, the Board of Directors shall make a final determination. The decision of the Board of Directors shall be final and conclusive.

6. PDRTA reserves the right to seek legal counsel for any protest, resolutions, decisions and appeals.

### **Prohibited Communications and Donations**

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

1. During the period between publication of the solicitation and final award, you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents, or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer.
2. You are advised to familiarize yourself with Regulation 19-445.2465, which restricts donations to a governmental entity with whom you have or seek to have a contract. You represent that your Offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.

### **Public Opening**

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

### **Questions from Offerors**

1. Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) business days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations of instructions will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." We will not identify you in our answer to your question.
2. PDRTA seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer—as soon as possible—regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

### **Rejection/Cancellation**

PDRTA may cancel this solicitation in whole or in part. PDRTA may reject any or all proposals in whole or in part.

### **Responsiveness**

1. Award will not be made on a nonresponsive offer. An offer is nonresponsive:
  - a. If it does not constitute an unambiguous offer to enter into a contract with PDRTA, or
  - b. If it imposes conditions inconsistent with, or does not unambiguously agree to, the solicitation's material requirements.
2. Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

### **Signing Your Offer**

Every Offer must be signed by an individual with actual authority to bind the Offeror.

1. If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm.
2. If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner.

3. If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign.
4. An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (1) through (3) above for each type of participant.
5. If an offer is signed by an agent, other than as stated in subparagraphs (1) through (4) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

#### **Submitting a Paper Offer or Modification**

1. If you must submit a paper offer of modification the following instructions apply:
  - a. All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule)
  - b. All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package.
  - c. Submit Your Offer or modification to the address on the Cover Page.
  - d. The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapped must be labeled "Offer Enclosed" on the face thereof.
  - e. If you are responding to more than one solicitation, submit each offer in a separate envelope of package.
  - f. Submit the number of copies indicated on the Cover Page.
2. Facsimile offers, modifications, or withdrawals will not be considered unless authorized by the Solicitation.

#### **Withdrawal or Correction of Offer**

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the solicitation authorizes facsimile offers, offers may be withdrawn vis facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if , before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code 11-35-1520 and Regulation 19-445.2085.

## **2B. SPECIAL INSTRUCTIONS**

### **SECTION NOT APPLICABLE – INTENTIONALLY OMITTED**

#### **Authority Approval Required**

Any award is subject to prior approval by the PDRTA Board of Directors. Regularly scheduled Authority meetings ordinarily occur every third Thursday of the month.

#### **Bid Samples or Descriptive Literature**

Do not submit bid samples or descriptive literature unless expressly requested. Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation.

#### **Contents of Offer (RFP)**

1. Offers should be complete and carefully worded and should convey all of the information requested.
2. Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarify of content.

3. The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.
4. If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed nonresponsive and not considered for award.

#### **Responsiveness – Correction of Non-Conformity**

Offerors may be given an opportunity to correct any material nonconformity at the sole discretion of the Purchasing Manager. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer.

#### **Unit Prices Required**

Unit price to be shown for each item.

### **3. SCOPE OF WORK / SPECIFICATIONS**

#### **Scope of Work**

PDRTA is seeking an APC System to be implemented on 15 vehicles that comprise the current bus fleet. 6 vehicles are low-floor heavy duty buses with 2 doors (front and back), and 9 vehicles are cutaways with 1 door (front). Maintenance and ability to expand the System will be key aspects of the System. It is the desire of PDRTA to possess an APC System with the features and functional capabilities found in Sections 3.C-F and Attachment M of this solicitation. Proposer should review each line and respond with the following:

- **Comply** – meaning the system can meet the ideal characteristics, without change.
- **Non-comply** – meaning the system cannot meet the ideal characteristics. Use the vendor comments section to explain your firm's position on the ideal characteristics.
- **Comply Modify** – meaning the system can meet this ideal characteristic or the goal of the ideal characteristics in a different manner. If this response is given, please explain in the vendor comments section.

#### **A. Background**

PDRTA is a regional transit authority that operates in six counties of South Carolina: Florence, Darlington, Dillon, Marion, Marlboro, and Chesterfield. The agency provides fixed-route, demand response, ADA complementary paratransit, and workforce transportation.

#### **B. Fleet Expansion/System Scalability**

The APC System will be capable of expansion to additional vehicles should PDRTA expand its fleet during the contract period. The Proposer shall include in pricing for expanding the APC per additional vehicle including but not limited to hardware, implementation, and maintenance costs. The pricing for expansion should specify annual costs for each year.

#### **C. Training**

Upon installation, the contractor will maintain authorized personnel to ensure satisfactory competence in using the APC System, including the software applications, data processing, report generation, and system administration. Adequate training will be provided on the use and maintenance of the APC hardware leading to a satisfactory level of competence by the appropriate Authority administrative, operational, maintenance, technical, and transit service operators. The Contractor will provide adequate training for all applicable staff including onsite training for implementation and customer support access.

The proposer shall provide all documents, manuals, and printed materials necessary for the effective operation of the systems. The documents provided shall be provided in an electronic version. A System's Administrator's Manual shall be provided to include graphical depictions and a written description of all administration functions including separate sections for the following, or related, topics:

- Backup and recovery
- Performance analysis
- Scheduled maintenance
- User management
- Report production
- Configuration control
- System diagnostics
- Database integrity

#### **D. Installation**

The Contractor will be responsible for installation of the System on the vehicles as follows:

- Contractor will remove any old equipment/technology as needed to install the new system.
- Contractor will commence equipment and software installation at its earliest availability following the award of the contract.
- Explanation of how the APC is powered and how it draws power, schematic of layout.
- Training will be conducted concurrently or immediately following installation in order to have administrative, operation, technical, and mechanical staff fully trained in advance of the time the APC System is deployed.
- The Contractor will provide additional training as necessary during the project timeline.
- All installation shall be professionally completed by qualified installers and final inspections will be conducted and approved by PDRTA.
- The System will not interfere with any operations of the vehicle and its current systems.
- All cables, wiring, switches, and circuits are designed for the heavy-duty operation of the buses.
- All cables, wiring, switches, shall be labeled.
- Mounted hardware should be installed according to industry standards and recommended practices.
- All installation will be done with tamper proof fasteners whenever possible.
- All equipment provided will be transferable to other transit buses as the need arises.
- Training for fleet staff on installation practices for future onboard hardware installments
- Provide spare parts for all Contractor-provided equipment and related materials.

#### **E. Integration with Existing PDRTA Systems**

Contractor shall provide responses to the prompts below:

1. CAD/AVL Integration
  - a. Describe the scope and method of integration with PDRTA's existing CAD/AVL (SPOT/VLU) system.
  - b. Confirm whether this integration is in the proposed solution at no additional cost.
2. APC Data Delivery and System Health Monitoring
  - a. Clarify data delivery confirmation logic, service levels, and monitoring systems.
  - b. Describe the health monitoring functionality, including system access, alerts, and reporting.
3. Real-Time Passenger Load Visibility
  - a. Explain how real-time passenger load information is made available to dispatch and operational staff.

- b. Confirm whether this capability is provided as part of the base system without additional licensing or fees.
4. Cost and Contract Considerations
  - a. Identify any additional costs, subscriptions, hardware, or contractual conditions associated with the above capabilities.

#### **F. System Failure Response Times**

Contractor shall provide 24/7 support when needed in case of severe emergencies. Contractor shall respond to issues in a timely manner. Contractor is deemed to have responded when it has replied to PDRTA's initial request. This may be in the form of an email or a telephone call to either provide a solution or request further information. Guaranteed response times depend on the severity of the issue and apply during PDRTA's operational hours only. Guaranteed response times are shown in Table 1.

Table 1	
Severity Level	Response Time
Fatal	90 Minutes
Severe	120 Minutes
Medium	24 hours
Minor	72 hours

The severity levels shown in Table 1 are defined below and refer to all mode types.

- **Fatal:** Complete degradation – all users and critical functions affected. Item or service completely unavailable, including but not limited to:
  - The system is unreachable by PDRTA users.
  - The system is accessible, but there is no telematics data being presented to the user.
- **Severe:** Significant degradation – large percentage of users or critical functions affected, including but not limited to:
  - Public website and/or mobile/native app is unreachable or does not render the information
- **Medium:** Limited degradation – limited number of users or non-critical functions affected. Business processes can continue.
- **Minor:** Small degradation – one user affected. Business processes can continue. Any software defect that does not drastically impact critical business functions.

#### **Delivery/Performance Location – Specified**

After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:

Pee Dee Regional Transportation Authority  
313 S. Stadium Rd.  
Florence, SC 29506

### **5. INFORMATION FOR OFFERORS TO SUBMIT**

You shall submit a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and information requested elsewhere in this solicitation. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. Provide a

detailed project plan and timeline defining design through implementation for all components described in the Scope of Work. Provide detailed information regarding your management structure, personnel, and experience. Notwithstanding any other instructions herein, you shall submit Attachment B Bid Sheet and Price/Business Proposal and Attachment B.1 Price Proposal. In addition to these, Proposers can attach their vendor specific pricing sheet to provide further information.

## **6. QUALIFICATIONS**

### **Qualifications of Offeror**

1. To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will ensure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider:
  - a. Key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or
  - b. Any subcontractor you identify
2. You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is ground for rejection.
3. Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability; however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guarantee that you offer to provide.
4. Provide a detailed narrative statement with adequate information to establish that you meet all the requirements stated in subparagraph (1) above. Include all appropriate documentation. If you intend for Us to consider the qualifications of your key personnel, predecessor business, or subcontractor(s), explain the relationship between you and such person or entity.

### **Qualifications – Required Information**

Submit the following information or documentation for you and for any subcontractor (at any tier level) that you identify pursuant to the clause titled “Subcontractor – Identification”. Err on the side of inclusion. You represent that the information provided is complete.

1. The general history and experience of the business in providing work of similar size and scope
2. Information reflecting the current financial position. Include the most current financial statement and financial statements for the last two fiscal years. If the financial statements have been audited in accordance with the following requirements, provide the audited version of those statements.
3. A detailed narrative statement listing the three most recent, comparable contracts (including contract information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ.
4. A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three (3) years.
5. A list of failed projects, suspensions, debarments, and significant litigation.

### **Subcontractor – Identification**

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any PDRTA information, as defined in the clause titled “Information Security – Definitions,” if included, or (3) otherwise involves services critical to your performance of the work, your Offer must identify that business and the work which they are to perform. Identify potential

subcontractors by providing the business name, address, phone, taxpayer identification number, and point of contact. In determining Your responsibility, PDRTA may contact and evaluate Your proposed subcontractors.

## **7. AWARD CRITERIA**

### **Award Criteria – Proposals**

Award will be made to the highest ranked, responsive, and responsible Offeror whose Offer is determined to be the most advantageous to PDRTA. See clause titled “Evaluation Factors – Proposals.” A panel of judges will evaluate the proposals based on the criteria outlined within this section, which shall be applied to all eligible, responsive proposals in selecting the successful Proposer. PDRTA reserves the right to disqualify any proposal for, but not limited to: proposals deemed as non-responsive and/or non-responsible. PDRTA reserves the right to make such investigations of the qualifications of the proposer as required.

### **Award to One Offeror**

Award will be made to one Offeror.

### **Discussions and Negotiations – Optional**

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, PDRTA may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. If improper revisions are submitted during discussions, PDRTA may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. PDRTA may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the request for proposals. If negotiations are conducted, PDRTA may elect to disregard the negotiations and accept your original proposal. PDRTA may elect to conduct interviews with bidders to discuss their proposals and request a demonstration. These will be scheduled after the bid submission deadline and will be conducted virtually. Interviews will be optional, but highly recommended.

### **Evaluation Factors – Proposals**

Offers will be evaluated using the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

#### **1. Cost (Maximum 40 Points)**

Cost will be evaluated on the following factors below. This will be based on the price sheet in Attachment B & B.1. Options pricing will not be included in the evaluation.

- A. Year 1 Total Cost (Maximum 20 Points)
- B. Year 2 Total Cost (Maximum 5 Points)
- C. Year 3 Total Cost (Maximum 5 Points)
- D. Year 4 Total Cost (Maximum 5 Points)
- E. Year 5 Total Cost (Maximum 5 Points)

#### **2. Qualifications and Experience (Maximum 20 Points)**

- This criterion involves an evaluation of the qualifications, knowledge, and experience of the staff assigned to this project and of the successful projects completed by the proposed project team. This factor will also include an assessment of the availability and ability of the firm to perform the



Scope of Services in a timely manner. Information reviewed will include the company profile, resumes of project team members, and financial reports.

3. Technical Proposal & System Specifications (Maximum 20 Points)
  - This criterion involves the evaluation of the APC System that best suits PDRTA's needs as stated in the Scope of Work.
  - Proposer's responsiveness to the proposal requirements and guidelines.
  - Adherence to the requirements listed in the system specifications attachment and descriptive comments of functionality and features.
  - Description of reporting features, including customization and tracking.
  - Implementation Schedule and Project Timeline.
4. References (Maximum 15 Points)

This criterion will be based on the three references included in Attachment K References.
5. Integration with Existing PDRTA Systems (Maximum 5 Points)

This criterion will be based on the response to questions provided in the Integration Section in the Scope of Work.

### **Contract Negotiations**

The selected Vendor will be responsible for developing and submitting a detailed Project Scope and Time Schedule to be included in the contract documents. This scope and schedule shall be consistent with the requirements of this RFP and is subject to approval by PDRTA.

## **8. TERMS AND CONDITIONS**

### **7A. GENERAL**

#### **Assignment, Novation, and Change of Name, Identity, or Structure**

1. Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that PDRTA shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with
  - a. Proof of the assignment
  - b. The identity (by contract number) of the specific state contract to which the assignment applies, and
  - c. The name of the assignee and the exact address or account information to which assigned payments should be made.
2. If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer with prompt written notice of such change.
3. Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

#### **Bankruptcy – General**

1. Notice. In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the

proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all PDRTA contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract

2. Termination. This contract is voidable and subject to immediate termination by PDRTA upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

#### **Choice-of-Law**

The Agreement, any dispute claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced, and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

#### **Contract Awarded Pursuant to Code**

Any contract resulting from this solicitation is formed pursuant to the South Carolina Consolidated Procurement Code and is deemed to incorporate all applicable provision thereof and the ensuing regulations. See also clause titled "Code of Laws Available."

#### **Contract Documents & Order of Precedence**

1. Any contract resulting from this solicitation shall consist of the following documents:
  - a. The solicitation, as amended,
  - b. Your offer, as amended,
  - c. Any statement reflecting PDRTA's final acceptance (a/k/a "award"), and
  - d. Purchase orders
2. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. The terms and conditions of documents (1) through (4) above shall apply notwithstanding any additional or different terms and conditions in any other documents, including without limitation,
  - a. Any instrument submitted by PDRTA other than a purchase order,
  - b. Any invoice or other document submitted by Contractor, or
  - c. Any privacy policy, terms of use, or end user agreement.
3. Except as otherwise allowed by the solicitation, the terms and conditions of all such documents and any purchase orders shall be void and of no effect.
4. No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the procurement officer shall be void and of no effect.

#### **Discount for Prompt Payment**

1. Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.
2. In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office received a proper invoice, provided PDRTA annotate such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds

transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when PDRTA is closed and businesses are not expected to be conducted, payment may be made on the following business day.

### **Disputes**

1. Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Purchasing Manager, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Florence County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States' Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.
2. Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

### **Equal Opportunity**

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Section 60-1.4, 60-4.2, 60-250.5(a). and 60-741.5(a), which are hereby incorporated by reference.

### **False Claims**

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

### **Fixed Pricing Required**

Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.

### **Notice**

1. After award, any notices shall be in writing and shall be deemed duly given
  - a. Upon actual delivery, if delivery is by hand
  - b. Upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or
  - c. Ten days after deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used.
2. Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to PDRTA shall be to the procurement officer's address on the Cover Page. Either part may designate a different address for notice by giving notice in accordance with this paragraph.

### **Open Trade**

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

#### **Organizational Conflict of Interest**

1. The Contractor agrees to immediately advise the procurement officer if an actual or potential organizational conflict of interest is discovered after award, and to make a full written disclosure promptly thereafter to the procurement officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the procurement officer, to avoid, mitigate, or neutralize the actual or potential conflict.
2. PDRTA may terminate this contract for convenience, in whole or in part, if it deems such termination is necessary to avoid an organizational conflict of interest. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not increase the obligation of PDRTA beyond what it would have been if the subcontract had contained such a clause.
3. The disclosure required by paragraph (1) of this provision is a material obligation of the contract. If the Contractor knew or should have known of an organizational conflict of interest prior to award, or discovers an actual or potential conflict after award, and does not disclose, or misrepresents, relevant information to the Procurement Officer, PDRTA may terminate the contract for default.

#### **Payment & Interest**

1. PDRTA shall pay the Contractor, after the submission of proper invoices and vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by PDRTA.
2. Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, PDRTA shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason.
3. Amounts due to PDRTA shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30.
4. Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite the agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (2) and (3) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published each year, applied as simple interest without compounding.
5. PDRTA shall have all of its common law, equitable and statutory rights of set-off.

#### **Publicity**

Contractor shall not publish any comments or quotes by PDRTA employees, or include PDRTA in either news releases or a published list of customers, without the prior written approval of the procurement officer.

#### **Purchase Orders**

Contractor shall not perform any work prior to the receipt of a purchase order from PDRTA. PDRTA shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to

elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

### **Survival of Obligations**

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnifications – Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

### **Taxes**

Any tax the contractor may be required to collect or pay upon the sale, use, or delivery of the products shall be paid by PDRTA, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by PDRTA. It shall be solely PDRTA's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by PDRTA to contractor, contractor shall be liable to PDRTA for any such loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

### **Termination Due to Unavailability of Funds**

Payment and Performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

### **Third Party Beneficiary**

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on accounts of this Contract as a third party beneficiary or otherwise.

### **Waiver**

PDRTA does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the procurement officer has actual authority to waive any of PDRTA's rights under this contract. Any waiver must be in writing.

## **7B. SPECIAL**

### **Bankruptcy – PDRTA Information**

1. All PDRTA information (as defined in the clause herein entitled "Information Security – Definitions") shall belong exclusively to PDRTA, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, PDRTA information in its possession and/or under its control will not be considered property of its bankruptcy estate.

2. Contractor agrees to notify PDRTA within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to PDRTA, before such filing, all PDRTA information that is in Contractor's possession in a format that can be readily utilized by PDRTA.
3. In order to protect the integrity and availability of PDRTA information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any subcontractor that will process, store, transmit, or access government information.

### **Changes**

1. Contract Modification. By a written order, at any time, and without notice to any surety, the procurement officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:
  - a. Drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for PDRTA in accordance therewith;
  - b. Method of shipping or packing;
  - c. Place of delivery;
  - d. Description of services to be performed;
  - e. Time of performance (i.e. hours of the day, days of the week, etc.); or,
  - f. Place of performance of the services.
  - g. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.
2. Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that PDRTA promptly and duly makes such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.
3. Time Period for Claim. Within 30 days after receipt of a written contract modification under paragraph (1) of this clause, unless such period is extended by the procurement officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless PDRTA is prejudiced by the delay in notification.
4. Claim Barred after Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

### **Compliance with Laws**

During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

### **Conference – Pre-Performance**

Unless waived by the procurement officer, a pre-performance conference between the contractor, PDRTA, and the procurement officer shall be held at a location selected by PDRTA within five (5) business days after final award, and prior to commencement of work under this contract, unless otherwise written or expressed by the procurement officer. The responsibilities of all parties involved will be discussed to ensure a meeting of the minds of all concerned. The successful contractor or his duly authorized representative shall be required to attend at contractor's expense.

### **Contractor's Liability Insurance – General**

1. Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees, or subcontractors.
2. Coverage shall be at least as broad as:
  - a. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.
  - b. Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
  - c. Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
3. Every applicable Using Governmental Unit, and the officers, officials, employees, and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.
4. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects PDRTA and the officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by PDRTA or the officers, officials, employees, and volunteers, shall be excess of the contractor's insurance and shall not contribute with it.
5. Prior to commencement of the work, the Contractor shall furnish PDRTA with original certificates and amendatory endorsements or copies of the applicable policy language affecting coverage required by this section. All certificates are to be received and approved by PDRTA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. PDRTA reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.
6. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify PDRTA immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.
7. Contractor hereby grants PDRTA and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against PDRTA or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not PDRTA has received a waiver of subrogation endorsement from the insurer.
8. Any deductibles or self-insured retentions must be declared to and approved by PDRTA. PDRTA may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

9. PDRTA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

#### **Contractor's Liability Insurance – Information Security and Privacy**

[Ask questions now: For products providing the coverages required by this clause, the insurance market is evolving. Our research indicates that the requirements stated herein reflect commercially available insurance products. Any offeror having concerns with any specific requirements of this clause should communicate those concerns with the procurement officer well in advance of opening.]

1. Without limiting any other obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, a policy or policies of insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees, subcontractors, or any other entity for which the contractor is legally responsible.
2. Coverage must include claims for:
  - a. Information security risks, including without limitation, failure to prevent unauthorized access to, tampering with or unauthorized use of a computer system; introduction of malicious codes, computer viruses, worms, logic bombs, etc., into data or systems; or theft, damage, unauthorized disclosure, destruction, or corruption of information in whatever form;
  - b. Privacy risks, including
    - i. Failure to properly handle, manage, store, dispose of, destroy, or otherwise control non-public personally identifiable information in any format;
    - ii. Loss of, unauthorized access to, or disclosure of confidential information; and
    - iii. Any form of invasion, infringement, or interference with rights of privacy, including breach of security/privacy laws or regulations;
  - c. Contractual liability for the contractor's obligations described in the clauses titled "Indemnification – Third Party Claims – Disclosure of Information" and "Information Use and Disclosure;" and
  - d. Errors, omissions, or negligent acts in the performance, by the contractor or by any entity for which the contractor is legally responsible, or professional services included in the work.
3. If the work includes content for internet web sites or any publications or media advertisements, coverage must also include claims for actual or alleged infringement of intellectual property rights, invasion of privacy, as well as advertising, media and content offenses.
4. If the work includes software, coverage must also include claims for intellectual property infringement arising out of software and/or content (with the exception of patent infringement and misappropriation of trade secrets)
5. Coverage shall have limits no less than five million (\$5,000,000.00) dollars per occurrence and ten million (\$10,000,000.00) dollars aggregate.
6. If the insurance required by this clause is procured on a form affording "Claims-made" coverage, then
  - a. All limits stated above as "per occurrence" shall be understood to mean "per claim" or "per occurrence," as is consistent with the terms of the "claims-made" policy; and
  - b. Such claims-made insurance shall provide for a retroactive date no later than the date the contract is awarded.
7. All terms of this clause shall survive termination of the contract and shall continue until thirty (30) days past the final completion of the work, including the performance of any warranty work. In addition, contractor shall maintain in force and effect any "claims-made" coverage for a minimum of two (2) years after final completion of all work or services to be provided hereunder. Contractor shall purchase an extended reporting period, or "tail coverage," if necessary to comply with the latter requirement.



8. Every applicable Using Governmental Unit, and the officers, officials, employees, and volunteers of any of them, must be covered as additional insureds on the policy or policies of insurance required by this clause.
9. For any claims related to this contract, the insurance coverage required by this clause shall be primary insurance as respects PDRTA, every applicable Using Governmental Unit, and the officers, officials, employees, and volunteers of any of them. Any insurance or self-insurance maintained by PDRTA, every applicable Using Governmental Unit, or the officers, officials, employees, and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.
10. Prior to commencement of the work, the Contractor shall furnish PDRTA with original certificates of insurance for every applicable policy effecting the coverage required by this clause. All certificates are to be received and approved by the Procurement Officer before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including policy declarations and any endorsements required by this section, at any time
11. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this clause are or will be changed, cancelled, or replaced.
12. Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance as is required by this clause. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.
13. Any deductibles or self-insured retentions must be declared to and approved by PDRTA. PDRTA may require the Contractor to purchase coverage with a lower deductible or retention of provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

#### **Contractor Personnel**

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

#### **Contractor's Obligation – General**

The contractor shall provide and pay for all materials, tools, equipment, labor, and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The Contractor must act as the prime contractor and assume all responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

#### **Contractor's Use of PDRTA Property**

Upon termination of the contract for any reason, PDRTA shall have the right, upon demand, to obtain access to, current copies of all PDRTA application programs and necessary documentation, all data, files intermediate materials and supplies held by the Contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by PDRTA with PDRTA's written consent, except to the extent necessary to carry out the work.

#### **Default**

1. (A) PDRTA may, subject to paragraphs (3) and (4) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:
  - a. Deliver the supplies or to perform the services within the time specified in this contract or an extension;
  - b. Make progress, so as to endanger performance of this contract (but see paragraph (1)(B) of this clause); or
  - c. Perform any of the other material provisions of this contract (but see paragraph (1)(B) of this clause).(B) PDRTA's right to terminate this contract under subdivisions (1)(A)(b) and (A)(c) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the procurement officer) after receipt of the notice from the procurement officer specifying the failure.
2. If PDRTA terminates this contract in whole or in part, it may acquire, under the terms and in the manner the procurement officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to PDRTA for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
3. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
4. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.
5. If this contract is terminated for default, PDRTA may require the Contractor transfer title and deliver to PDRTA, as directed by the procurement officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the procurement officer, the Contractor shall also protect and preserve property in its possession in which PDRTA has an interest.
6. PDRTA shall pay contract price for completed supplies delivered and accepted. The Contractor and procurement officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the procurement officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. PDRTA may withhold from these amounts any sum the procurement officer determines to be necessary to protect PDRTA against loss because of outstanding liens or claims of former lien holders.
7. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of PDRTA, be the same as if the termination had been issued for the convenience of PDRTA. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of PDRTA, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.
8. The rights and remedies of PDRTA in this clause are in addition to any other rights and remedies provided by law or under this contract.

**Disposal of Packaging**

Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation.

**Estimated Quantity – Purchases from Other Sources**

PDRTA may bid separately any unusual requirements or large quantities of supplies covered by this contract.

**Illegal Immigration**

By signing your Offer, You certify that You will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to PDRTA upon request any documentation required to establish either:

1. That Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or
2. That you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14.

Pursuant to Section 8-14-60, “A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.” You agree to include in any subcontracts with your subcontractors language requiring your subcontractors to

1. Comply with the applicable requirements of Title 8, Chapter 14, and
2. Include in their contract with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

**Indemnification - Third Party Claims – General**

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys’ fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractor, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee’s negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor’s obligations hereunder are in no way limited by any protection afforded under workers’ compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties’ agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, “Indemnitees” means PDRTA, its Board of Directors, and all their respective officers, agents, and employees.

**Indemnification – Third Party Claims – Disclosure of Information**

1. Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter “action”) of any character (and all related damages, settlement payments, attorneys’ fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled “Information Security – Definitions”) caused in whole or in part by any act or omission of contractor, its subcontractors at any tier, their employees, workmen, servants, agents or anyone directly or indirectly employed by them

or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnatee, and whether or not such action is brought by a third party or an Indemnatee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law.

2. Indemnatee must notify contractor in writing within a reasonable period of time after Indemnatee first receives written notice of any action. Indemnatee's failure to provide or delay in providing such notice will relieve contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices contractor's ability to defend such action. Indemnatee must reasonably cooperate with contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnatee's attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnatee may participate in contractor's defense of any action at its own expense. Contractor may not, without Indemnatee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such settlement, compromise, or consent (i) include an unconditional release of Indemnatee from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnatee or otherwise adversely affect an Indemnatee. Indemnatee's consent is necessary for any settlement that requires Indemnatee to part with any right or make any payment or subjects Indemnatee to an injunction.
3. Notwithstanding any other provision, contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.
4. "Indemnatee" means PDRTA, its Board of Directors, and all their respective officers, agents, and employees.

#### **Indemnification – Intellectual Property**

1. Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify PDRTA, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. PDRTA shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. PDRTA shall allow Contractor to settle such claim so long as:
  - a. All settlement payments are made by Contractor, and
  - b. The settlement imposes no non-monetary obligation upon PDRTA. PDRTA shall reasonably cooperate with Contractor's defense of such claim.
2. In the event an injunction or order shall be obtained against PDRTA's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either:
  - a. Procure for PDRTA the right to continue to use, or have used, the acquired item, or
  - b. Replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by PDRTA.

If neither (a) nor (b) above is practical, PDRTA may require that Contractor remove the acquired item from PDRTA, refund to PDRTA any charges paid by PDRTA therefor, and take all steps necessary to have PDRTA released from further liability.

3. Contractor's obligations under this paragraph do not apply to a claim to the extent

- a. That the claim is caused by Contractor's compliance with specifications furnished by PDRTA unless Contractor knew its compliance with PDRTA's specifications would infringe an IP right, or
  - b. That the claim is caused by Contractor's compliance with specifications furnished by PDRTA if PDRTA knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor.
4. As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work.
5. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

### **Information Security – Definitions**

The following definitions are used in those clauses that cross reference this clause.

COMPROMISE means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "compromise" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract.

DATA means a subset of information in an electronic format that allows it to be retrieved and transmitted.

GOVERNMENT INFORMATION means information (i) provided to Contractor by, or generated by Contractor for, the using governmental unit, or (ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web-based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information.

INFORMATION means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

INFORMATION SYSTEM means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

PUBLIC INFORMATION means any specific information, regardless of form or format, that PDRTA has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request.

SOFTWARE means any computer program accessed or used by the using governmental unit or a third party pursuant to or as a result of this contract.

THIRD PARTY means any person or entity other than the using governmental unit, the contractor, or any subcontractors at any tier.

UNRESTRICTED INFORMATION means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which contractor develops or learns in connection with Contractor's performance of the work.

WEB-BASED SERVICE means a service accessed over the internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

### **Information Security – Safeguarding Requirements**

1. Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled Information Security – Definitions. In addition, as used in this clause:

CLEARING means removal of data from an information system, its storage devices, and other peripheral devices with storage capacity, in such a way that the data may not be reconstructed using common system capabilities (i.e., through the keyboard); however, the data may be reconstructed using laboratory methods.

INTRUSION means an unauthorized act of bypassing the security mechanisms of a system.

MEDIA means physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, portable hard drives, “thumb” drives, large scale integration memory chips, and printouts (but not including display media, e.g., a computer monitor, cathode ray tube (CRT) or other (transient) visual output) onto which information is recorded, stored, or printed within an information system.

VOICE means all oral information regardless of transmission protocol.

SAFEGUARDING means measures or controls that are prescribed to protect information.

2. Safeguarding information. Without limiting any other legal or contractual obligations, contractor shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards (including without limitation written policies and procedures) for protection of the security, confidentiality, and integrity of the government information in its possession. In addition, contractor shall apply security protocols when the contractor reasonably determines that safeguarding requirements, in addition to those identified in paragraph (3) of this clause, may be required to provide adequate security, confidentiality, and integrity in a dynamic environment based on an assessed risk or vulnerability.
3. Safeguarding requirements and procedures. Contractor shall apply the following basic safeguarding requirements to protect government information from unauthorized access and disclosure:
  - a. Protecting information on public computers and websites. Do not process PDRTA information on public computers (e.g., those available for use by the general public in kiosks, hotel business centers) or computers that do not have access control. PDRTA information shall not be posted on websites that are publicly available or have access limited only by domain/Internet Protocol restriction. Such information may be posted to web pages that control access by user ID/password, user certificates, or other technical means, and that provide protection via use of security technologies. Access control may be provided by the intranet (versus the website itself or the application it hosts).
  - b. Transmitting electronic information. Transmit email, text messages, blogs, and similar communications that provide the best level of security and privacy available, given facilities, conditions, and environment.
  - c. Transmitting voice and fax information. Transmit PDRTA information via voice and fax only when the sender has a reasonable assurance that access is limited to authorized recipients.
  - d. Physical and electronic barriers. Protect PDRTA information by at least one physical and one electronic barrier (e.g., locked container or room, login and password) when not under direct individual control.
  - e. Sanitization. At a minimum, clear information on media that have been used to process PDRTA information before external release or disposal. Overwriting is an acceptable means of clearing media in accordance with National Institute of Standards and Technology 800-88, Guidelines for Media Sanitization.
  - f. Intrusion protection. Provide at a minimum the following protections against intrusions and compromise:
    - i. Current and regularly updated malware protection services, e.g., anti-virus, antispyware
    - ii. Prompt application of security-relevant software upgrades, e.g., patches, service packs, and hot fixes.
  - g. Transfer limitations. Transfer PDRTA information only to those subcontractors that both require the information for purposes of contract performance and provide at least the same level of security as specified in this clause.

- h. Subcontracts. Any reference in this clause to contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement requirements at least as secure as those imposed by this clause on, any other person or entity that contractor authorizes to take action related to government information.
- i. Other contractual requirements regarding the safeguarding of information. This clause addresses basic requirements and is subordinate to any other contract clauses or requirements to the extent that it specifically provides for enhanced safeguarding of information or information systems.

### **Information Use and Disclosure**

Except to the extent necessary for performance of the work, citizens should not be required to share information with those engaged by PDRTA in order to access services provided by PDRTA and such information should be used by those engaged by PDRTA only to the extent necessary to perform the work required; accordingly, this clause addresses basic requirements for the contractor's use and disclosure of government information, which expressly includes, but is not limited to, information provided by or obtained from the citizens. Anonymous information does not resolve the foregoing concern. This clause should be broadly interpreted to effectuate this intent. Every obligation in this clause is material. Absent express reference to this clause, this clause supersedes any other clause to the extent of any inconsistency unless and to the extent the other clause provides greater protection for PDRTA information.

1. Definitions. The terms used in this clause shall have the same meaning as the terms defined in the clause titled "Information Security – Definitions."
2. Legal Mandates. Contractor shall be permitted to use, disclose, or retain PDRTA information to the limited extent necessary to comply with any requirement imposed on contractor by law. If it is necessary for contractor to use, disclose, or retain PDRTA information in order to comply with a law, contractor shall provide using governmental unit with written notice, including a description of the circumstances and applicable law, in advance of such use, disclosure or retention except to the extent expressly prohibited by law.
3. Flow Down. Any reference in this clause to contractor also includes any subcontractor at any tier. Contractor is responsible for, and shall impose by agreement the requirements of this clause on, any other person or entity that contractor authorizes to take action related to PDRTA information.
4. Collecting Information. Contractor must gather and maintain PDRTA information only to the minimum extent necessary to accomplish the work.
5. Rights, Disclosure, and Use. Except as otherwise expressly provided in this solicitation, Contractor agrees NOT to either (1) use or disclose PDRTA information, or (2) retain PDRTA information after termination or expiration of this contract. Contractor acquires no rights in any PDRTA information except the limited rights to use, disclose and retain PDRTA information in accordance with the terms of this solicitation. To the extent reasonably necessary to perform the work, Contractor may: (i) use (including access, process, transmit, and store) and maintain PDRTA information itself; and (ii) disclose PDRTA information to persons having a need-to-know (e.g., subcontractors). Before disclosing PDRTA information to a subcontractor or third party, Contractor shall give the using governmental unit detailed written notice of both the reason for disclosure and the identity and location of the recipient. The notice shall be provided no later than fifteen (15) business days in advance of the disclosure.
6. Return. Notwithstanding the using governmental unit's failure to perform or the pendency of a dispute, Contractor agrees to promptly deliver to the using governmental unit (or destroy, at the using governmental unit's option) all PDRTA information in its possession as and upon written request of using governmental unit (provided that, if the contract has not expired or been terminated, Contractor shall be excused from the performance of any work reasonably dependent on Contractor's further access to such PDRTA information).

7. Privacy Policy & Applicable Laws. Without limiting any other legal or contractual obligations imposed by this contract or the law, Contractor shall
  - a. Comply with its own privacy policies and written privacy statements relevant to the work, and
  - b. Comply with
    - i. All laws applicable to contractor regarding PDRTA information, and
    - ii. All laws and standards identified in the clause, if included, entitled Information Use and Disclosure – Standards.
8. Actions Following Disclosure. Immediately upon discovery of a compromise or improper use of PDRTA information, contractor shall take such action as may be necessary to preserve forensic evidence and eliminate the cause of the compromise or improper use. As soon as practicable, but no later than twenty-four hours after discovery, contractor shall notify using governmental unit of the compromise or improper use, including a description of the circumstances of the use or compromise. As soon as practicable after discovery, contractor shall undertake a thorough forensic investigation of any compromise or improper use and provide the using governmental unit to fully understand the nature and extent of the compromise or improper use. With regard to any compromise or improper use of government information, contractor shall:
  - a. Provide any notification to third parties legally required to be provided such notice by contractor, and if not (e.g., if legally required of the using governmental unit for the cost of providing such notifications;
  - b. Pay all costs and expenses for at least two years of identity theft monitoring services (including without limitation, credit monitoring) and identity theft restoration services for any such affected individuals receiving notice where such services are appropriate given the circumstances of the incident and the nature of the information compromised;
  - c. Undertake any other measures that are customary and reasonable for an entity to take when experiencing a similar disclosure,
  - d. Pay any related fines or penalties imposed on the using governmental unit, and
  - e. Reimburse the using governmental unit all costs reasonably incurred for communications and public relations services involved in responding to the compromise or improper use.Notwithstanding any other provision, contractor's obligations pursuant to this item (8) are without limitation.
9. Survival & Remedy. All the obligations imposed by this paragraph are material. The obligations of this section shall survive termination or expiration of the contract. Without limiting any rights the using governmental unit may have, and notwithstanding any other term of this contract, contractor agrees that using governmental unit may have no adequate remedy at law for a breach of contractor's obligations under this clause and therefore the using governmental unit shall be entitled to pursue equitable remedies in the event of a breach of this clause.

#### **Licenses and Permits**

During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections, and related fees for each or any such licenses, permits, and/or inspections required by PDRTA, county, city, or other government entity or unit to accomplish the work specified in this solicitation and contract.

#### **Material and Workmanship**

Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.

#### **Offshore Contracting Prohibited**



No part of the resulting contract from this solicitation may be performed offshore of the United States by persons located offshore of the United State or by means, methods, or communications that, in whole or in part, take place offshore of the United States.

### **Ownership of Data & Materials**

All data, material, and documentation prepared for PDRTA pursuant to this contract shall belong exclusively to PDRTA.

### **Price Adjustments**

1. Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):
  - a. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - b. By unit prices specified in the Contract or subsequently agreed upon;
  - c. By the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
  - d. In such a manner as the parties may mutually agree; or,
  - e. In the absence of agreement by the parties, through a unilateral initial written determination by the procurement officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the procurement officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.
2. Submission of Price or Cost Data. Upon request of the procurement officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

### **Pricing Data – Audit – Inspection**

[Clause included pursuant to Section 11-35-1830, -2210, & -2220]

1. Cost or Pricing Data. Upon procurement officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (i) Any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (ii) Execution of a change order or contract modification with Contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which PDRTA finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties.
2. Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the procurement officer. PDRTA may audit your records at reasonable times and places. As used in this subparagraph (2), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (2), you shall retain all records and allow any audits provided for by 11-35-2220(2).
3. Inspection. At reasonable times, PDRTA may inspect any part of your place of business which is related to performance of the work.
4. Instructions Certification. When you submit data pursuant to subparagraph (1), you shall (i) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for PDRTA context), and (ii) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for PDRTA context).
5. Subcontracts. You shall include the above text of this clause in all of your subcontracts.

6. Nothing in this clause limits any other rights of PDRTA.

**Relationship of the Parties**

Neither party is an employee agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

**Shipping/Risk of Loss**

Destination is the shopping dock of the using governmental units' designated receiving site, or other location, as specified herein.

**Storage of Materials**

Absent approval of the using governmental unit, Contractor shall not store items on the premises of the using governmental unit prior to the time set for installation.

**Term of Contract – Effective Date/Initial Contract Period**

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is one year from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.

**Term of Contract – Option to Renew**

At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, not to exceed a total of five years unless contractor receives notice that PDRTA 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.

**Term of Contract – Termination by Contractor**

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the procurement officer notice of its election to terminate under this clause at least thirty (30) days prior to the expiration of the then current term.

**Termination for Convenience**

1. Termination. The procurement officer may terminate this contract in whole or in part, for the convenience of PDRTA. The procurement officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.
2. Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The procurement officer may direct the contractor to assign the contractor's right, title, and interest under terminated work orders or subcontracts to PDRTA. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
3. Rights to Supplies. The procurement officer may require the contractor to transfer title and deliver to PDRTA in the manner and to the extent directed by the procurement officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession

of the contractor in which PDRTA has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in an accordance with the standards of Uniform Commercial Code Section 2- 706. Utilization of this Section in no way implies that PDRTA has breached the contract by exercise of the Termination for Convenience Clause.

4. Compensation.

- a. The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such a claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the procurement officer may pay the contractor, if at all, an amount set in accordance with subparagraph (c) of this paragraph.
  - b. The procurement officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by PDRTA, the proceeds of any sales of supplies and manufacturing materials under paragraph (3) of this clause, and the contract price of the work not terminated.
  - c. Absent complete agreement under subparagraph (b) of this paragraph, the procurement officer shall pay the contractor the following amounts, provided payments under this subparagraph:
    - i. Contract prices for supplies or services accepted under the contract;
    - ii. Costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
    - iii. Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (c)(ii) of this paragraph;
    - iv. Any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph (b) of this paragraph, and the contract price of work not terminated.
  - d. Contractor must demonstrate any costs claimed, agreed to, or established under subparagraphs (b) and (c) of this paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.
5. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect PDRTA's right to require the termination of a subcontract, or (ii) increase the obligation of PDRTA beyond what it would have been if the subcontract had contained an appropriate clause.

**Warranty – Standard**

Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided.

**9. BIDDING SCHEDULE / COST PROPOSAL**

**Bidding Schedule**

**RFP 013026 Bidding Schedule**

DATE	EVENT
January 30, 2026	Advertisement in South Carolina Business Opportunity (SCBO)
February 6, 2026 at 10:00am (EST)	Pre-Bid Meeting – Optional (via Zoom) <a href="https://us06web.zoom.us/j/85235672733?pwd=VJu0MMKhWuhRNcHtlYQpyxruaZ0reJ.1">https://us06web.zoom.us/j/85235672733?pwd=VJu0MMKhWuhRNcHtlYQpyxruaZ0reJ.1</a>

February 13, 2026	Questions submitted by electronic mail to <a href="mailto:procurement@pdrta.org">procurement@pdrta.org</a>
February 18, 2026	Response to questions answered by PDRTA
March 10, 2026	Proposal due
March 11, 2026 at 2:00pm (EST)	Bid opening and disbursement located in the PDRTA Board Room at 313 S. Stadium Rd., Florence, SC 29506
March 18 – March 24, 2026	Optional proposer demo period. Schedule your 1-hour meeting by emailing <a href="mailto:procurement@pdrta.org">procurement@pdrta.org</a>
March 25, 2026	Intent of Award to be posted on the following website: <a href="https://pdrta.org/doing-business-with-us/procurement">https://pdrta.org/doing-business-with-us/procurement</a>
April 1, 2026	Statement of Award to be posted on the following website: <a href="https://pdrta.org/doing-business-with-us/procurement">https://pdrta.org/doing-business-with-us/procurement</a>

### **Deadline Enforced**

Proposals received after the time and date set forth for receipt of proposals will not be accepted. It is the respondent's responsibility to ensure timely delivery of their proposal.

## **10. ATTACHMENTS TO SOLICITATION**

### **List of Attachments**

The following documents are attached to this solicitation:

Attachment A: Federal Clauses

Attachment B: Bid Sheet and Price/Business Proposal

Attachment B.1: Price Proposal

Attachment C: Buy America Certification

Attachment D: Telecommunications Certification

Attachment E: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Attachment F: Ethics in Public Contracting Affidavit

Attachment G: Immigration Certification

Attachment H: Lobby Restrictions Certification

Attachment I: Non-Collusion Affidavit of Prime Bidder

Attachment J: Sub-Contractor/Sub-Consultant Participation

Attachment K: Summary of References

Attachment L: Tax Notice

Attachment M: APC System Ideal Characteristics

Attachment N: Offeror's Checklist

## **Attachment A: Federal Clauses**

### **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, leases, subcontracts, arrangements, other third party Contracts 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. § 200.334. 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 in accordance with 2 CFR § 200.337.
4. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractor's access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

### **Americans with Disabilities Act (ADA)**

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, 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 persons with disabilities, including any subsequent amendments to that Act, and 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 persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### **Buy America Certification**

This Contract is subject to the "Buy America" requirements of 49 United States Code (USC) §5323(j) and 49 Code of Federal Regulations (CFR) Part 661, as may be amended from time to time, and applicable federal regulations. Prospective Proposers' attention is directed to 49 CFR §661.11, "Rolling Stock Procurements." Prospective Proposers have the responsibility to comply with the cited and any governing statutes and regulations, including official interpretations. A Proposer shall submit to the Agency the appropriate Buy America certification (located in this document, page 153, CER 8.1), included in this document, with all offers on FTA-funded contracts. Proposals that are not accompanied by a properly completed Buy America certification are subject to the provisions of 49 CFR 661.13 and will be rejected as nonresponsive. The two signature blocks on the Buy America certificate are mutually exclusive. Proposers shall sign only one signature block on the certificate. Signing both signature blocks will make the Proposal nonresponsive. A false certification is a criminal act in violation of 18 USC §1001. Any party may petition the FTA to investigate a successful Proposer's compliance with the Buy America certification. The procedures are set out in 49 CFR Part 661.15. If the FTA determines that the evidence indicates noncompliance, the FTA will require the Agency to initiate an investigation. The successful Proposer has the burden of proof to establish compliance with its certification. If the successful Proposer fails to so demonstrate compliance, then the successful Proposer will be required to substitute sufficient domestic materials without revision of the original Contract terms. Failure to do so will be a breach of the Contract and may lead to the initiation of debarment proceedings under 49 CFR Part 29.

### **Cargo Preference**

The Contractor agrees (a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working

days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the GTA/City (through the contractor in the case of a subcontractor's bill-of lading.); and (c) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

### **Changes to Federal Requirements**

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

### **Charter Services**

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

### **Civil Rights Laws and Regulations**

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

1. Federal Equal Employment Opportunity (EEO) Requirements. These include but are not limited to:
  - (a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
  - (b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment

Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
5. Civil Rights and Equal Opportunity The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
  - (a) Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
  - (b) Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (c) Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 - 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue. Updated November 2022
  - (d) Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (e) Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## **Clean Air Act and Federal Water Pollution Control Act**

1. The Contractor agrees:
  - a. It will not use any violating facilities;
  - b. It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”;
  - c. It will report violations of use of prohibited facilities to FTA; and
  - d. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. 7401-7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).
2. The contractor shall comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

## **Conformance with ITS National Architecture**

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

## **Debarment and Suspension**

Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. 29 The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

## **Drug and Alcohol Use and Testing (49 CFR Part 40.11)**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

## **Equal Employment Opportunity**

During the performance of this contract, the contractor agrees as follows:



1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
  - a. Employment, upgrading, demotion, or transfer;
  - b. Recruitment or recruitment advertising;
  - c. Layoff or termination;
  - d. Rates of pay or other forms of compensation;
  - e. And selection for training, including apprenticeship.
  - f. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees places by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant hereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or a vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **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 Energy Policy and Conservation Act. This requirement extends to all third-party contractors and their contracts at every tier, this clause shall be included in all subcontracts.

**Federal Changes**

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. The contractor's failure to comply shall constitute a material breach of the contract.

**Federal Tax Liability and Recent Felony Convictions**

1. The contractor certifies that it:
  - a. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
  - b. Was not convicted of felony criminal violation under any Federal law within the preceding 24 months. If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.
2. Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any sub agreement.

**Fly America**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

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

All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

**Motor Carrier Safety**

Contractor agrees that it will comply with the applicable economic and insurance registration requirements of the:

1. U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, "Minimum Levels of Financial Responsibility for Motor Carriers," 49 C.F.R. part 387, if it is engaged in operations requiring compliance with 49 C.F.R. part 387, it is engaged in interstate commerce, and it is not within a defined commercial zone;
2. The provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311;
3. The safety requirements of U.S. FMCSA regulations, "Federal Motor Carrier Safety Regulations," 49 C.F.R. parts 390 – 397, to the extent applicable; and
4. The driver's license requirements of U.S. FMCSA regulations, "Commercial Driver's License Standards, Requirements, and Penalties," 49 C.F.R. part 383, and "State Compliance with Commercial Driver's

License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Controlled Substances and Alcohol Use and Testing,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

#### **National Intelligent Transportation Systems (ITS) Architecture and Standards**

Contractor represents that it is and will be compliant at all times with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (August 13, 2018), and will not provide telecommunications and/or video surveillance services or equipment to the GTA in the performance of any contract, subcontract or other contractual instrument resulting from a solicitation or RFP that have been manufactured by a supplier (including any subsidiary or affiliate of those entities) that is considered prohibited or not approved under this regulation. This statute is not limited to entities that use end-products produced by those companies; and also covers the use of any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

#### **No Government Obligation to Third Parties**

The Recipient and Contractor acknowledge 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.

#### **Non-Construction Employee Protection (Contract Work Hours and Safety Standards Act)**

Applicability – Contracts over \$250,000

1. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.
3. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.
4. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and 33 also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

#### **Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, Abuse, or Other Legal Matters**

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each

Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
3. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

#### **Notification of Federal Participation**

To the extent required by law, in the announcement of any third-party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third-party contract.

#### **Patent Right and Rights in Data**

1. Intellectual Property Rights This Project is funded through a Federal award with FTA for experimental, developmental, or Updated November 2022 research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: 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 written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” 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, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.
2. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described below. 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 extend its federal license to any other party.
  - a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and

- b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
3. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under Updated November 2022 the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
4. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, 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 that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
5. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
6. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
7. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance

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

1. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, 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 FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
2. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
3. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.
4. Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters (FTA Master Agreement (25), Sec. 39(b)(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge

of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient Access to Records and Reports Applicability – As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

#### **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Contractor represents that it is and will be compliant at all times with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (August 13, 2018), and will not provide telecommunications and/or video surveillance services or equipment to the GTA in the performance of any contract, subcontract or other contractual instrument resulting from a solicitation or RFP that have been manufactured by a supplier (including any subsidiary or affiliate of those entities) that is considered prohibited or not approved under this regulation. This statute is not limited to entities that use end-products produced by those companies; and also covers the use of any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

#### **Prompt Payment**

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify the Agency whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of Updated November 2022 work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent from the Agency.

#### **Recycled Products**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

#### **Restrictions on Lobbying**

1. Conditions on use of funds.
  - a. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence 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 any of the following covered Federal actions: 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.
  - b. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
  - c. Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
  - d. Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence 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 that loan insurance or guarantee.

- e. Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence 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 that loan insurance or guarantee.

2. Certification and disclosure.

- a. Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
  - (i) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  - (ii) An award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- b. Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
  - (i) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  - (ii) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000, Updated November 2022 Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.
- c. Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
  - (i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  - (ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
  - (iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- d. Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
  - (i) A subcontract exceeding \$100,000 at any tier under a Federal contract;
  - (ii) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
  - (iii) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
  - (iv) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, Shall file a certification, and a disclosure form, if required, to the next tier above.
- e. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.
- f. Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.
- g. For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not

made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

- h. No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

### **Safe Operation of Motor Vehicles**

1. Seat Belt Use – The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or GTA.
2. Distracted Driving – The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

### **Seismic Safety**

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

### **Severability**

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

### **Simplified Acquisition Threshold**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or Updated November 2022 breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

### **Solid Wastes (Recovered Materials)**

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **Substance Abuse Requirements**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight



Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

### **Termination**

Termination Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000.

1. Termination for Convenience (General Provision) 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. Contractor shall promptly submit its termination claim to the recipient. If the contractor is in possession of any of the recipient's property, the contractor shall account for same, and dispose of it as the recipient directs.
2. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effective by serving a notice of termination to contractor setting forth the manner in which contractor is in default. The contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that 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 contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
3. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination of default shall not in any way operate to preclude the recipient 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 the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
5. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient 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 Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to the contractor a notice of termination specifying the nature of default. The contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
7. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to the contractor a notice of termination specifying the nature of default. The contractor shall only be paid the contract price for services performed

in accordance with the manner of performance set forth in this contract. If this contract is terminated while the contractor has possession of the recipient goods, the contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. The contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. 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 termination had been issued for the recipient's convenience.

8. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to the contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:
  - a. Delay in completing the work arises from unforeseeable causes beyond their control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
  - b. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience. If termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to the contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. 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 termination had been issued for the recipient's convenience.
9. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on the contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to 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 recipient and the parties shall negotiate the termination settlement to be paid to the contractor. If termination is for the recipient's convenience, the contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the recipient determines that 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 contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

### **Trafficking in Persons**

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

1. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect.
2. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
3. Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.

### **Veterans Hiring Preference**

Veterans Employment - Recipients and subrecipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

### **Violation and Breach of Contract**

1. Disputes: Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. 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 agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.
2. Performance during Dispute: 36 Unless otherwise directed by the agency's authorized representative, the contractor shall continue performance under this contract while matters in dispute are being resolved.
3. 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.
4. Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and 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.
5. Rights and Remedies: 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 by any of them under the contract, nor shall any such action or failure to act constitute an approval of acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## Attachment B: Bid Sheet and Price/Business Proposal

The Agreement shall be in effect for only the decided upon number of days following the receipt of the Notice to Proceed. Having carefully examined the Request for Proposal, attachments and related documents, the undersigned proposes and agrees to provide the specified services to PDRTA, in accordance with the Specifications described in the RFP, during the initial term from the date on the Notice to Proceed and at the prices set forth in the following Bid Schedules.

### 1. Base Bid:

To supply all labor and materials and to perform all work shown or specified to complete the project for the sum of: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) hereby designated as the Bid. The bidder understands that the PDRTA reserves the right to reject any and all bids and to waive any informalities in the bidding. The Bidder agrees that this Bid shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving bids. Upon receipt of written notice of the acceptance of this Bid, the Bidder will execute the formal Agreement within 10 days, and deliver Surety Bonds as required by the General Conditions. The bid security attached in the sum of \_\_\_\_\_ (\$ ) is to become the property of the PDRTA in the event the Agreement and Bond are not executed within the time above set forth as liquidated damages for the delay and additional expense to the PDRTA caused thereby. The undersigned declares that his firm is (delete those not applicable): A corporation organized and existing under the laws of the State of: \_\_\_\_\_ A partnership consisting of: \_\_\_\_\_ The undersigned declares that the person signing this proposal is fully authorized to sign the proposal on behalf of the firm listed and to fully bind the firm listed to all the conditions and provisions thereof. It is agreed that no person or persons or company other than the firm listed below or as otherwise indicated hereinafter has any interest whatsoever in this proposal or the contract that may be entered into as a result thereof, and that in all respects the proposal is legal and fair, submitted in good faith, without collusion or fraud.

Respectfully Submitted:

\_\_\_\_\_

Contractor

By: \_\_\_\_\_

\_\_\_\_\_

(Type/Print Name and Title)

\_\_\_\_\_

City, State, Zip

S.C. General Contractor's License No. \_\_\_\_\_

**Attachment B.1 Price Proposal**

<b>Automatic Passenger Counter (APC)</b>					
Item	Unit	Quantity	Unit Price	Total Price	Comments
<b>Professional Services</b>					
Project Management	Lump Sum	1			
System Design, Engineering, Configuration, and Bus Testing	Lump Sum	1			
Installation – 1 Door Buses	Per Bus				
Installation – 2 Door Buses	Per Bus				
Removal of Old Equipment	Per Bus				
Training	Per day of training				
<b>APC Hardware</b>					
APC – 1 Door Buses	Per Bus				
APC – 2 Door Buses	Per Bus				
APC Cable Kits	Per Front Door				
APC Cable Kits	Per Back Door				
<b>Additional Add-Ons (Not required) (Not included in evaluation) (Provide on a separate sheet)</b>					

<b>APC Software Annual Support &amp; Maintenance</b>					
Item	Unit	Quantity	Unit Price	Total Price	Comments
Software Annual Maintenance, Support & Warranty	Year 1	1			
Software Annual Maintenance, Support & Warranty	Year 2	1			
Software Annual Maintenance, Support & Warranty	Year 3	1			
Software Annual Maintenance, Support & Warranty	Year 4	1			
Software Annual Maintenance, Support & Warranty	Year 5	1			

<b>APC Hardware Warranty</b>					
Item	Unit	Quantity	Unit Price	Total Price	Comments
Hardware Warranty	Year 1	1			
Hardware Warranty	Year 2	1			
Hardware Warranty	Year 3	1			
Hardware Warranty	Year 4	1			
Hardware Warranty	Year 5	1			

**Attachment C: Buy America Certification**

Steel, Iron, or Manufactured Products Buy America Certificate

IFB/RFP Number: \_\_\_\_\_ Procurement Description: \_\_\_\_\_

Certificate of Compliance with Buy America Requirements The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

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

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

Company: \_\_\_\_\_

Certificate of Non-Compliance with Buy America Requirements The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

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

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

Company: \_\_\_\_\_

#### Attachment D: Telecommunications Certification

The Primary Participant (name of applicant for an FTA grant or cooperative agreement, or potential Contractor for a major third-party contract), \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its officers, directors, principals, and agents:

1. Pursuant to 48 CFR 52.204-24, the Offeror represents that—

It ☐ WILL, ☐ WILL NOT provide covered telecommunications equipment or services to the GTA in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

2. After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ DOES, ☐ DOES NOT use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

The Offeror agrees to include these requirements in all subcontracts at all tiers, regardless of value, and to obtain the same certification and disclosure from all subcontractors (at all tiers).

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT),  
\_\_\_\_\_  
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 48 CFR 52.204-24 ARE APPLICABLE  
THERE TO.

Executed this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
Name of Contractor’s Firm

\_\_\_\_\_  
Signature

**Attachment E: Certification Regarding Debarment, Suspension, and Other Responsibility Matters**



**Certification Regarding  
Debarment, Suspension, and Other Responsibility Matters  
Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application 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) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are 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 enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative



## **Attachment E1: Instructions for Certification**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Attachment F: Ethics in Public Contracting Affidavit**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. He/She is \_\_\_\_\_ (title) for/of \_\_\_\_\_  
(company/business), the Bidder that has submitted the attached Bid;
2. He/She is legally qualified and capable of signing this affidavit and is authorized to do so by  
Bidder;
3. He/She is fully informed regarding the preparation and contents of the attached Bid and of all pertinent  
circumstances respecting such Bid;
4. Such Bid is genuine and is made without fraud;
5. Neither the said Bidder, nor any of its officers, partners, owners, agents, representatives, employees, or  
parties in interest has offered or received any kickbacks or inducements from any offeror, suppliers,  
manufacturer, or subcontractor in connection with the offer, and they have not conferred on any public  
employee, public member, or public official having official responsibility for this procurement or  
transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of value as  
defined in Section 8-13-100 of the South Carolina Code of Laws; and
6. Furthermore, neither the Bidder, nor any of its officers, partners, owners, agents representatives, employees  
or parties in interest has any relationship with the City, another person, or organization that interferes with  
fair competition or that constitutes a conflict of interest with respect to a contract with the City.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
COMPANY/BUSINESS

BY: \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

ITS: \_\_\_\_\_  
TITLE

Notary Public for \_\_\_\_\_ (state)

My commission expires \_\_\_\_\_

By: \_\_\_\_\_

**Attachment G: Immigration Certification**

CERTIFICATION OF COMPLIANCE WITH THE  
SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT

I, \_\_\_\_\_, hereby state and declare that I am the  
(name)

\_\_\_\_\_ of \_\_\_\_\_ (title)  
(name of entity)

And hereby certify to the Awarding Agency that, as to any service contract subsequently entered into with the  
Awarding Agency, that

\_\_\_\_\_  
(Name of entity)

intends to verify any new employees' status and require any of my subcontractors or sub subcontractors performing  
services under any contract with the Awarding Agency to verify any new employees' status, per the terms of the  
South Carolina illegal Immigration Reform Act, and as set out in Title 41, Chapter 8 of the Code of Laws of South  
Carolina 1976.

\_\_\_\_\_  
(Name of Official)

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

**Attachment H: Lobby Restrictions Certification**

**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, subgrants 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 place 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 \_\_\_\_\_

**Attachment I: Non-Collusion Affidavit of Prime Bidder**

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that:

1. He/She is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid;
2. He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached Bid or of any other bidder, or to secure through any other bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against Pee Regional Transportation Authority or any person interested in the proposed contract; and
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by a collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(signed) \_\_\_\_\_  
(title) \_\_\_\_\_

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(signature)

My commission expires \_\_\_\_\_

**Attachment J: Sub-Contractor/Sub-Consultant Participation**

IFB/RFP No. \_\_\_\_\_

Project: \_\_\_\_\_

We, \_\_\_\_\_,

(Name of Bidder/Proposer)

do hereby certify that the following list contains all subcontractors and/or sub-consultants associated with this project, if applicable. I will notify PDRTA of any changes that occur.

[Include the business name, address, phone, taxpayer identification number, points of contact, and details of the work to be performed by each subcontractor and/or sub-consultant.]

**Attachment K: Summary of References**

Proposers shall furnish three references relating to the specifications detailed within the Scope of Work.

**Reference (1)**

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

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Work: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

+++++

**Reference (2)**

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

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Work: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

+++++

**Reference (3)**

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

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Work: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

## **Attachment L: Tax Notice – Nonresidents Only**

### **NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING**

#### **Important Tax Notice – Nonresidents Only**

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: [www.sctax.org](http://www.sctax.org)

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: <http://www.sctax.org/forms/withholding/i-312-form>



**Attachment M: APC System Ideal Characteristics**

<b>Item/Section</b>	<b>Requirement</b>	<b>Comply, Modify, Non-comply</b>	<b>Comments</b>
<b>1. General</b>			
1 - General	Installation and implementation must be completed by May 1, 2026.		
2 - General	Provide electrical and troubleshooting manuals.		
<b>2. Customer Service</b>			
1 – Customer Service	Customer Service and Technical Support must be able to respond to questions and issues at any time.		
<b>3. Future Developments</b>			
1 – Future Developments	The proposer should provide a timeline of future system developments, including but not limited to software updates, hardware updates, and new features		
<b>4. System Operational Requirements</b>			
1 – System Operational Requirements	Proposal shall provide Automatic Vehicle Location on all vehicles.		
2 – System Operational Requirements	The Automatic Vehicle Location shall operate without interaction/input from the vehicle operator.		
3 – System Operational Requirements	Ability to assign/correct bus assignments remotely from dispatch.		
4 – System Operational Requirements	Proposers shall provide an unlimited number of licenses/users to the APC System.		
5 – System Operational Requirements	System shall include automated calibration, diagnostic, and error logging features.		
6 – System Operational Requirements	System shall detect and flag anomalies such as prolonged obstructions or sensor misalignment.		
7 – System Operational Requirements	System performance will enable the exact determination of alighting and boarding passengers at each stop with an accuracy greater than 95%. Alternatively, this percentage can change to that approved in the APC NTD Certification Process.		
8 – System Operational Requirements	System shall account for temporary stops, temporary bus stop closures, and re-routes. If the vehicle goes off-route, the		
9 – System Operational Requirements	System shall discriminate between valid passengers and non-passenger objects.		

10 – System Operational Requirements	System shall discriminate between passengers boarding and alighting and record the data as a function of individual stops, routes, and runs.		
11 – System Operational Requirements	System shall detect and correct for double-backs, re-crossings, and passengers with objects (e.g. bags, boxes, wheelchairs, etc.)		
12 – System Operational Requirements	System shall function accurately across all bus door configurations and passenger flow patterns.		
13 – System Operational Requirements	System shall operate without interference with any existing or future onboard electronic systems.		
14 – System Operational Requirements	System shall integrate with vehicle power and provide transient, surge, and reverse polarity protection.		
15 – System Operational Requirements	System shall include visual status indicators (LED or display) confirming system power, operational status, and data logging activity.		
16 – System Operational Requirements	System shall be transferable between vehicles with minimal reconfiguration.		
17 – System Operational Requirements	System shall allow functionality testing as part of the pre-trip to confirm that the APC System is operational		
18 – System Operational Requirements	System shall include provisions for firmware updates, system calibration tools, and remote diagnostics when connectivity is available.		
19 – System Operational Requirements	All cables, wiring, interconnections, switches, and circuit breaker/fuses will be heavy duty and specifically designed for their purposes.		
<b>5. Passenger Counter Sensor</b>			
1 – Passenger Counter Sensor	Each sensor will have adjustable detection zones to accommodate different vehicle types and layouts.		
2 – Passenger Counter Sensor	Each sensor will record route and geolocation information.		
3 – Passenger Counter Sensor	Each sensor shall count passengers with heights between one (1) meter and the maximum height of the doorway.		
4 – Passenger Counter Sensor	Each sensor will include clock/clock synchronization features for accurate time/date stamp mark of data.		
5 – Passenger Counter Sensor	The counting accuracy of each sensor will not be affected by normal variables, including but not limited to: The reasonable speed at which a person passes under the sensor; a passenger remaining immobile at the sensor location; variations in light and		

	temperature; any other obstruction of the sensor.		
6 – Passenger Counter Sensor	Obstruction of the counter sensor that could affect the count accuracy will be noted in the data.		
7 – Passenger Counter Sensor	Diagnostics to include self-check and obstruction detection.		
8 – Passenger Counter Sensor	Maintain a log for errors and performance data accessible through the onboard system.		
<b>6. Data Acquisition and Storage System</b>			
1 – Data Acquisition and Storage System	Historical data shall be available to be queried by route history and vehicle history.		
2 – Data Acquisition and Storage System	The receiving equipment will confirm transmission/receipt of the raw data to servers.		
3 – Data Acquisition and Storage System	PDRTA will have access to raw data.		
4 – Data Acquisition and Storage System	An error/failure log feature shall be available.		
5 – Data Acquisition and Storage System	A power backup shall be available in the event external power is lost.		
6 – Data Acquisition and Storage System	The System must be simple, user-friendly, and allows for verification of passenger counts and allows for corrections.		
7 – Data Acquisition and Storage System	The System shall highlight data or issue an alert when data is outside normal parameters.		
<b>7. Reporting Capabilities</b>			
1 – Reporting Capabilities	Contractor will be required to assist PDRTA with having the APC System certified to meet the FTA reporting requirements. Contractor will be required to develop any plans and procedures necessary to achieve certification.		
2 – Reporting Capabilities	All data and results produced by the APC System shall be accessible for display, printing, and exporting data that can be viewed and edited with standard office software (e.g. PDF, Microsoft Office Suite).		

3 – Reporting Capabilities	The system should be able to provide the option for customized reports so that filtered data selectable by PDRTA can be exported to common file formats, such as Access, Excel, and text files.		
4 – Reporting Capabilities	Standard reports will include the ability to track and report all operational data needed for the Federal Transit Administration (FTA) National Transit Data (NTD) reports, including tracking passenger miles.		
5 – Reporting Capabilities	Boarding and alighting for all stops. Specify how this data is provided. Include how many attributes can be used to narrow down boarding/alighting data (e.g. by route, by stop, by day, by hour. Etc.)		
6 – Reporting Capabilities	Each data record shall include the current GPS location latitude and longitude, current date/time, vehicle number, vehicle operator ID number, route number, trip number, and direction of travel.		
7 – Reporting Capabilities	The reporting solution shall provide a comprehensive set of ridership reports that include:		
8 – Reporting Capabilities	a. Statistics by route, direction, vehicle type, terminal, service period, route type, time		
9 – Reporting Capabilities	b. Ridership by route and trip, service period, route and stop, route type, route and time, time period, route		
10 – Reporting Capabilities	c. Stop usage		
11 – Reporting Capabilities	d. When each fixed route trip is sampled		
12 – Reporting Capabilities	e. When a bus goes off route and operates on a detour or performs service off schedule		
13 – Reporting Capabilities	f. When an APC is not counting on an individual door on a bus		
14 – Reporting Capabilities	g. APC data stop activity location details when a bus is operating a special service and is not logged properly		
15 – Reporting Capabilities	h. How/what to fix on malfunctioning APC system on a particular bus		
16 – Reporting Capabilities	i. When a bus is not transferring any APC data		
17 – Reporting Capabilities	j. When a bus is demonstrating gaps in data and is not providing a full comprehensive day of records		
18 – Reporting Capabilities	k. O-time performance that demonstrates when buses arrive, open		

	doors, close doors, and pull away from the stop.		
19 – Reporting Capabilities	l. Specific trips or blocks.		
20 – Reporting Capabilities	m. When a bus exceeds a defined load threshold.		
21 – Reporting Capabilities	n. On-demand requests from dispatch		
22 – Reporting Capabilities	o. Activity by vehicle and stop.		
<b>8. On-Board Hardware</b>			
1 – On-Board Hardware	All hardware shall conform to all applicable quality control standards of the original manufacturer and the bidder.		
2 – On-Board Hardware	All hardware components shall be new and suitable for the purposes specified.		
3 – On-Board Hardware	All on-board equipment shall integrate with the vehicle's electrical supply.		
4 – On-Board Hardware	All equipment modules, cables, mounting hardware, and connectors shall be designed to withstand the full range of operating environments found in the areas in which they are to be installed.		
5 – On-Board Hardware	All hardware components shall not interfere with the operation of existing and future equipment.		

## Attachment N: Offeror's Checklist

The following Documents must be included with the Proposal:

	<u>Proposer Check Off</u>	<u>PDRTA Check Off</u>
Attachment B: Bid Sheet and Price/Business Proposal	_____	_____
Attachment B.1: Price Proposal	_____	_____
Attachment C: Buy America Certification	_____	_____
Attachment D: Telecommunications Certification	_____	_____
Attachment E: Certification Regarding Debarment, Suspension, and Other Responsibility Matters	_____	_____
Attachment F: Ethics in Public Contracting Affidavit	_____	_____
Attachment G: Immigration Certification	_____	_____
Attachment H: Lobby Restrictions Form	_____	_____
Attachment I: Non-Collusion Affidavit for Prime Bidder	_____	_____
Attachment J: Sub-Contractor/Sub-Consultant Participation	_____	_____
Attachment K: Summary of References	_____	_____
Attachment L: Tax Notice – Nonresidents Only	_____	_____
Attachment M: APC System Ideal Characteristics	_____	_____
Cover Pages 1 and 2	_____	_____
Addenda Acknowledgments (if applicable)	_____	_____
Certification of Insurance Showing Present Coverage	_____	_____
Financial Statements from previous 2 years	_____	_____
Copy of the Offeror's City Business License (if applicable)	_____	_____
(A Business License is not required to submit an offer, however, if an award is made and a license is required, the offeror will have ten (10) days to furnish a copy of the license to the Procurement Manager).		
Implementation Schedule and Project Timeline	_____	_____