



BERKELEY-CHARLESTON-DORCHESTER
COUNCIL OF GOVERNMENTS

PLANNING, PARTNERSHIP & PROSPERITY

REQUEST FOR PROPOSAL

Safety Countermeasure
Visualization Software

Issued: July 14, 2025

Responses Due: August 4, 2025

CONTACT:

Jason McGarry
Procurement/Contracts Administrator
jasonm@bcdcog.com

BCDCOG is seeking proposals for an online platform or design software that will allow BCDCOG staff and agency partners to illustrate recommended safety countermeasures along high-risk corridors and at high-risk intersections identified in BCDCOG's regional safety action plan.

A secondary use of the tool will be to the support of broader agency-wide outreach efforts to partner agencies and the general public to help make safety-focused decisions about multimodal street network design alternatives.

The requirements for submitting a proposal are stated with the following Request for Proposal (RFP). This RFP has been developed in accordance with the procurement guidelines of the Federal Highway Administration (FHWA), and those related to State and Local Government. Details are described herein, and should be followed accordingly.

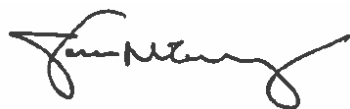
One (1) digital Proposal shall be emailed no later than **3:00 p.m. EST on August 4, 2025**, to jasonm@bcdcog.com. Any proposals received after the scheduled deadline on the closing date will be immediately disqualified in accordance with BCDCOG policies.

Any revisions to this RFP will be issued and distributed as an addendum. All addenda, additional communications, responses to questions, etc. pertaining to the RFP will be posted on the BCDCOG website www.bcdcog.com. All Providers should consult this website for updates before submitting proposals.

Any offer submitted as a result of this solicitation shall be valid for ninety (90) calendar days following the submittal date. This solicitation does not commit BCDCOG to award a contract, to pay any cost incurred in the preparation of proposals, or contract for the services. BCDCOG may award to more than one Proposer whose proposal is in compliance with all State and Federal regulations.

Proposals resulting from this solicitation are subject to the South Carolina Freedom of Information Act (FOIA). All information that is to be treated as confidential and/or proprietary information, in whole or in part, must be stamped and/or denoted as CONFIDENTIAL, in bold, in a font of at least 12-point type, in the upper right-hand corner of the page.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason M. [unclear]", is positioned above the title.

Procurement/Contracts Administrator

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SECTION 1 – INTRODUCTION

1.1 Introduction

The Berkeley-Charleston-Dorchester Council of Governments (BCDCOG) serves the local governments of the tri-county region to assist in the development of local and regional plans, as well as provide planning and technical support to improve the quality of life in the region. The Berkeley-Charleston-Dorchester Council of Governments (BCDCOG) is an association of local governments and one of South Carolina's 10 Regional Planning Councils that assists in planning for the common needs of its three counties and 27 municipalities. BCDCOG is the designated Metropolitan Planning Organization (MPO) responsible for carrying out the urban transportation planning process for the Charleston Area Transportation Study (CHATS). Additionally, BCDCOG provides oversight of the public transit programs in the region, CARTA and TriCounty Link.

SECTION 2 – SCOPE OF WORK

BCDCOG is seeking proposals for an online platform or design software that will allow BCDCOG staff and agency partners to illustrate recommended safety countermeasures along high-risk corridors and at high-risk intersections identified in BCDCOG's regional safety action plan.

A secondary use of the tool will be to the support of broader agency-wide outreach efforts to partner agencies and the general public to help make safety-focused decisions about multimodal street network design alternatives.

The selected platform or design software must be able to:

- Ingest or incorporate data layers, such as information on lane configurations and lane widths;
- Illustrate common safety countermeasures and multimodal street features, such as sidewalks, pathways, bikeways, medians, and curb extensions;
- Illustrate if recommended safety countermeasures fit within the constraints of available right of way;
- Illustrate how an individual corridor or intersection relates to the surrounding street network; and
- Share design alternatives with stakeholders to collect feedback through annotation or commenting features.

In addition, it is preferable if the selected platform is able to ingest or incorporate data layers, such as transit routes, turning movement counts, historic crashes, and motor vehicle speeds.

2.1 Tasks and Deliverables

Task 1: Licensing

The selected vendor will develop a licensing agreement with BCDCOG that allows unlimited seats among BCDCOG staff.

Available seats for public agency staff within the Berkeley-Charleston-Dorchester region, such as counties and municipalities, is preferable. If seats are provided to public agency staff outside of BCDCOG, tiered access control (e.g., admin, editor, and viewer) is also preferable.

Task 1 Deliverable:

Execution of a licensing agreement

Task 2: Set-up

*The selected vendor will conduct a **kick-off meeting** with BCDCOG staff to discuss the onboarding process. This meeting should include a discussion of any agency-specific settings, user roles, and any data integrations.*

*In advance of the kick-off meeting, BCDCOG will share **data layers** for integration into the platform or design software. During the meeting, the selected vendor will lead a discussion about the necessary changes in formatting to the data, alternative publicly-available data sources, and other limitations of the data integration process. Based on this discussion, BCDCOG will provide update data layers or approve the use of alternative publicly-available data sources. The selected vendor will integrate the data layers into the platform.*

Task 2 Deliverables:

- Kick-off meeting
- Integration of data layers

Task 3: Access

*After integrating local data, the selected vendor will distribute **login credentials** for an initial set of users among BCDCOG staff.*

*The selected vendor will provide **customer support** during this initial onboarding process. As **new users** are provided access over the life of the licensing agreement, the selected vendor will continue to provide login credentials and customer support of onboarding.*

Task 3 Deliverables:

- Distribution of login credentials
- Customer service support for onboarding of new users
- Continued distribution or modification of login credentials

Task 4: Training

The selected vendor will provide basic training to BCDCOG staff on how to navigate and use the platform or design software. This training can be provided through virtual webinars or through recorded step-by-step videos.

Task 4 Deliverable:

- Virtual training or access to step-by-step video tutorials

Task 5: Ongoing Support

Over the life of the license agreement, the selected vendor will be available to support integration of updated data layers and to troubleshoot issues with the platform or design software.

Task 5 Deliverable:

- *Ongoing customer support*

SECTION 3 – PROPOSAL CONTENT AND OUTLINE

3.1 Proposal Submission Requirements

All information shall be provided according to the following instructions in order to be considered a responsive Proposal.

- One fully executed, original Technical Proposal and Price Proposal

Each Proposal shall be typed and should be concise but comprehensive and not include any unnecessary elaborate or promotional materials. The Proposal is limited to 20 - 8 ½ X 11 sheets using font size 12 points. Required certifications are not considered part of the page limit.

Proposers shall provide a proposal which includes the required elements, both in content and sequence as set forth in this section. Proposal Forms must be completed and signed. All required certifications, and/or addendums must be completed, signed, and submitted with each Proposal.

3.2 Proposal Content

Proposers are required to submit the following information. Failure to respond to each item may render the Proposal non-responsive, causing it to be rejected. Contents of Proposals shall be as follows:

- **Cover Letter:** The cover letter shall state the Proposer's name and summarize the main qualifications of the firm.
- **Business Organization & History** – State the full name and address of your organization, years in business, and a brief history of your business, such as number of employees and aspirations for the future of your company.
 - **Professional Personnel** – Identify key personnel who will be assigned to service this contract.
 - **Prior Experience** – 3 - 5 references of similar contracts that you or your company has performed in the past 5 years.
 - **Schedule** – Indicate the time frame in which you would be prepared to begin this proposed service if your company is awarded this contract.
 - **Proposal** – State in precise terms the services you propose to provide and the approach to performing these services.
- **Details for completing the required tasks.**
- **Signed and completed Price Proposal Form**
 - Price proposal for Visualization Software per Section 2 – Scope of Work.

SECTION 4 – PROPOSAL EVALUATION

BCDCOG will evaluate proposals based upon the following:

- Proposed Solution and Functionality – 70%
 - Evaluation of the proposed solution specifically highlighting the specifications, functionality, and compatibility in regards to the overall need.
- The price proposal, representing thirty percent (30%) of the total score.

BCDCOG reserves the right to accept or reject any or all Proposals received as a result of this RFP, to negotiate with any individual or qualified firm, to modify or cancel in part or in its entirety the RFP, to request revised Proposals, to request further information, or to request Best and Final Offers if it is in the best interest of BCDCOG to do so. However, BCDCOG may select a Proposal or Proposals for award without any discussions or negotiations or request for any BAFOs. Proposers are hereby notified that the selected firms are expressly prohibited from offering any rebates, parts credits and any other price discounts following contract award. Thus, the initial proposal should represent the “best offer.”

This RFP does not commit BCDCOG to award a contract. BCDCOG reserves the right to waive informalities and irregularities in the Proposals received, or to reject all proposals submitted.

SECTION 5 – GENERAL CONDITIONS

Preparation of Proposals: All costs associated with the preparation and delivery of a Proposal are the sole responsibility of the applicable Proposer. Proposers shall not include any such expenses as part of the price proposed in response to the RFP.

Proposal Inquiries: Communication by any Proposer with any agent or employee of BCDCOG or about this RFP, or the pending process may result in the Proposer being deemed ineligible with regard to this RFP. All questions and requests for clarification regarding this RFP or this process must be submitted in writing to Jason McGarry, Procurement/Contracts Administrator at jasonm@bcdcog.com. Any correction or changes to this RFP will be made by written addendum only and will be distributed to all known recipients of the RFP document.

Subcontracting: If subcontractors are necessary to complete any functions of this requirement, the Proposer must list their names and business locations of any proposed subcontractors, with their submitted Proposal Form. BCDCOG reserves the right to review and approve any subcontractors proposed by the Respondent.

Exceptions to RFP: All exceptions taken by Proposer must be specific. Proposer must clearly indicate what alternative is being offered to allow BCDCOG a meaningful opportunity to evaluate the Proposal. Submitting an alternative proposal does not relieve the Proposer from submitting the Minimum Requirements as stated in the RFP. BCDCOG is under no obligation to accept any proposed exceptions or alternatives.

Single Proposal Response: If only one Proposal is received in response to this RFP and it is found by BCDCOG to be acceptable, a detailed price/cost proposal may be requested of the single Proposer. A

price or cost analysis, or both, possibly including an audit, may be performed by or for BCDCOG of the detailed price/cost proposal in order to determine if the price is fair and reasonable.

Opening of Proposal: Proposals will not be publicly opened. All Proposals and evaluations will be kept strictly confidential throughout the evaluation, negotiation, and selection process. Only the members of the Evaluation and Selection Committee and other BCDCOG officials, employees and agents having a legitimate interest will be provided access to the Proposals and evaluation.

Confidentiality: Upon receipt at BCDCOG, your Proposal is considered a public record except for material, which qualifies as “trade secret” information under SC FOIA. To properly designate material as Confidential/Trade Secrets.

Reservation of Rights to Change Schedule: BCDCOG shall ultimately determine the timing and sequence of events resulting from this RFP. BCDCOG reserves the right to delay the closing date and time for any phase if BCDCOG staff believe that an extension will be in the best interest of

Reservation of Rights to Amend RFP: BCDCOG reserves the right to amend or cancel this RFP at any time during the process if it believes that doing so is in the best interests of BCDCOG. Any addenda will be posted on the BCDCOG website and is the responsibility of the Proposer to include any addenda with their proposal.

Additional Evidence of Ability: A Proposer shall be prepared to present additional evidence of its experience, qualifications, ability, products, service facilities, and financial standing if requested by BCDCOG.

No Collusion or Conflict of Interest: By responding to this RFP, the Proposer shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Proposer submitting a separate response to this RFP and is in all respects fair and without collusion or fraud.

Withdrawal for Modification of Proposals: Proposers may change or withdraw their Proposals at any time prior to Proposal opening; however, no oral modifications will be permitted. Any proposal or modification received at the office designated in the solicitation after the exact time specified for receipt will not be considered and will be returned to the proposer unopened. Only letters or other formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal and received by BCDCOG prior to the scheduled closing time for receipt of Proposals, will be accepted.

Compliance with Laws: In submitting a Proposal, each Proposer agrees to make itself aware of, and comply with, all local, state, and federal ordinances, statutes, laws, rules, and regulations applicable to the Services covered by this RFP. Each Proposer further agrees that it will at all times during the term of the Contract comply with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but not limited to, Workers Compensation, the Fair Labor Standards Act (FLSA), Department of Labor and associated Section 5333b, the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), and all Occupational Safety and Health Administration (OSHA) regulations applicable to the work covered by this RFP.

Protest Procedures: All protests must be submitted to BCDCOG in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient

documentation, evidence, and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, be signed by the Protestor, and be notarized. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by BCDCOG.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead to:

Berkeley Charleston Dorchester Council of Governments (BCDCOG)
5790 Casper Padgett Way
North Charleston, SC 29406

Review of Protests by FHWA: All protests involving contracts financed with federal assistance shall be disclosed to the FHWA. Protesters shall exhaust all administrative remedies with BCDCOG prior to pursuing protests with FHWA. FHWA limits its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation.

Conflicts of Interest: No employee, officer or agent of BCDCOG shall participate in the selection or in the award of the Contract if a conflict of interest, real or apparent, would be involved.

Gratuities: BCDCOG'S officers, employees, and agents cannot solicit nor accept gratuities, favors, or anything of monetary value from Proposers or other parties with an interest in the selection of the award of the Contract.

Lobbying: During the period beginning with the advertisement and distribution of the RFP and ending with contract execution, no Prospective Proposer is allowed to communicate with any BCDCOG staff, employees, consultants, or agents regarding this RFP, excluding:

Communications with the Procurement/Contracts Administrator.
Communications that are in response to inquiries initiated by BCDCOG

The Prospective Proposer shall not, in any discussion with a BCDCOG employee, address any substantive or procedural matter relating to this RFP, the evaluation or selection process hereunder, or Contract award.

Clarification of Ambiguities: Any Proposer believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify BCDCOG in writing of such apparent discrepancy. Failure to notify BCDCOG will constitute a waiver of claim of ambiguity, inconsistency, or error.

Proposer's Obligation to Fully Inform Themselves: Proposers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements, and specifications of this RFP before submitting Proposals. Failure to do so will be at the Proposers own risk.

Disclaimer: Each Proposer must perform its own evaluation and due diligence verification of all information and data provided

APPENDIX A – COST PROPOSAL

Please provide a cost proposal for the services as defined in Section 2 – Scope of Work. BCDCOG is requesting an all-inclusive annual fee for the services. The annual fee is as follows:

Year One All-inclusive Fee: \$: _____

Year Two All-inclusive Fee: \$: _____

Year Three All-inclusive Fee: \$: _____

Year Four All-inclusive Fee: \$: _____

Year Five All-inclusive Fee: \$: _____

Name of Proposer: _____ Date: _____

Name of Authorized Representative: _____

Signature of Authorized Representative: _____

Receipt of Amendment (if any)

1. _____
Authorized Signature

2. _____
Authorized Signature

APPENDIX B – REQUIRED FEDERAL CLAUSES

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

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

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

2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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

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

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

3. ACCESS TO RECORDS AND REPORTS

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

(2). Where the Purchaser is a State and is the FHWA Recipient or a subgrantee of the FHWA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FHWA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

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

(4.) Where any Purchaser which is the FHWA Recipient or a subgrantee of the FHWA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

(6.) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FHWA Administrator, the Comptroller

General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

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

4. CHANGES TO FEDERAL REQUIREMENTS

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

5. TERMINATION

(a.) Termination for Convenience (General Provision) BCDCOG may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to BCDCOG, the Contractor will account for the same, and dispose of it in the manner the BCDCOG directs.

(b.) Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, BCDCOG may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

(c.) Termination for Default (Transportation Services) If the 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 the Contractor fails to comply with any other provisions of this contract, BCDCOG may terminate this contract for default. BCDCOG shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will 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 Recipient goods, the Contractor shall, upon direction of the BCDCOG, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and BCDCOG shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will 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 the termination had been issued for the convenience of BCDCOG.

(d.) Opportunity to Cure (General Provision) BCDCOG in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to BCDCOG's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from BCDCOG setting forth the nature of said breach or default, BCDCOG shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude PART from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(e.) Termination for Convenience (Professional or Transit Service Contracts) BCDCOG, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

6. CIVIL RIGHTS REQUIREMENTS

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

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

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

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

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

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

7. DISADVANTAGED BUSINESS ENTERPRISES (DBEs)

Disadvantaged Business Enterprises

(a.) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

(b.) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as PART deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

(c.) The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(d.) (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 from BCDCOG. In addition, [the contractor may not hold retainage from its subcontractors.] [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.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]

(e.) The contractor must promptly notify BCDCOG, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work.

8. INCORPORATION OF FEDERAL HIGHWAY ADMINISTRATION (FHWA) TERMS

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

9. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FHWA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and

subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

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

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

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BUY AMERICA

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FHWA funded projects are produced in the United States, unless a waiver has been granted by FHWA or the product is subject to a general waiver.

11. BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of BCDCOG. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. 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 [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between BCDCOG and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which BCDCOG is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the BCDCOG or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12. LOBBYING

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

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

13. CLEAN AIR

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FHWA.

14. CLEAN WATER

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

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FHWA.

15. PROMPT PAYMENT

The Contractor agrees to pay subcontractors within ten (10) calendar days of the Contractors receipt of payment from BCDCOG for undisputed services provided by the subcontractor. The Contractor agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of completion of the work, regardless of whether the Contractor has received any retainage payment from BCDCOG.

The Contractor shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of BCDCOG. The Contractor agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The Contractor will not be reimbursed for work performed by subcontractors unless and until the Contractor ensures that subcontractors are promptly paid for work, they have performed.

16. ENERGY CONSERVATION

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

17. ADA ACCESS

The contractor agrees to comply with all the provisions of Americans with Disabilities Act (ADA) of 1990, Section 504 of the Rehabilitation Act of 1973, and USDOT/FHWA implementing regulations. Contractor will not discrimination and ensure equal opportunity and access for persons with disabilities.

18. 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).

19. NOTIFICATION OF LEGAL MATTERS AFFECTING THE FEDERAL GOVERNMENT

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

20. SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use. 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 Contractor or AGENCY.

Distracted Driving. Contractor shall 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 Contract.

Subcontracts. Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

21. PROHIBITION ON PROVIDING OR USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), CONTRACTOR must not: (a) provide “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as part of its performance under this Contract, if such equipment or services will be used as a substantial or essential component of any system or as critical technology as part of any system; or (b) use such covered telecommunication equipment or services as a substantial or essential component of any system or as critical technology as part of any system, regardless of whether that use is in connection with performance of work under this Contract, subject only to the exception that covered telecommunications equipment or services may be provided or used if the equipment or services cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

REQUIRED CERTIFICATIONS

Debarment and Suspension Certification

Choose one alternative:

- ☐ – The Proposer, _____ certifies to the best of its knowledge and belief that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 2. Have not within a three-year period preceding this Proposal 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 or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. 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 2 of this certification; and
 4. Have not within a three-year period preceding this Proposal had one or more public transactions (federal, state or local) terminated for cause or default.

OR

- ☐ – The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.)
- The Proposer 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 Title 31 USC § Sections 3801 are applicable thereto.

Name:

Authorized signature

Date

Lobbying Certificate

The Proposer certifies, to the best its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a federal department or agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a member of the U.S. 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 thereof.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants and contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, USC § 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 PROPOSER, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Name of the bidder or Proposer's authorized official:

Title: _____

Signature

Date