

# **South Carolina Unified Certification Program Agreement For the Disadvantaged Business Enterprise Program & Small Business Enterprise Program**

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This AGREEMENT is made and entered into by and between the attached listed participants (hereinafter "Program Partners") and the South Carolina Department of Transportation (SCDOT), each recipient as defined in 49 CFR Part 26.81 and in accordance with SCDOT approved Disadvantaged Business Enterprise (DBE) and 49 CFR Part 26.39 for the Small Business Enterprise (SBE) Program.

WHEREAS, 49 CFR Part 26.81 requires federal transportation fund recipients of a state to create a Unified Certification Program (UCP) as part of each recipient's DBE Program and 49 CFR Part 26.39 requires the DBE Program to include an element for fostering small business participation for the SBE Program; and

WHEREAS, the parties require certification, recertification, and decertification of firms as a DBE/ACDBE or SBE; and

WHEREAS, all recipients of federal transportation funds in this state are covered by the requirements of 49 CFR, and are also required to participate in a Unified Certification Program; and

WHEREAS, the parties desire to join together for cooperative action pursuant to carrying out the requirements of 49 CFR Part 26 and to establish a South Carolina Unified Certification Program (SCUCP); and

WHEREAS, by that Agreement, all current recipients and/or future recipients identified by SCDOT are bound by the requirements of the SCUCP, which is a continuation of the current and previous processes of the SCDOT. This Agreement applies to all direct and indirect recipients.

NOW, THEREFORE, in consideration of the mutual promises and benefits that each party shall derive there from, the parties agree as follows:

## **ARTICLE I**

### **PURPOSES**

The parties have entered into this Agreement for the purposes of creating a South Carolina Unified Certification Program (SCUCP) to be administered by the South Carolina Department of Transportation, Disadvantaged Business Enterprise Office.

SCDOT shall provide "one-stop shopping" to applicants for DBE, ACDBE and SBE certification, so that an applicant will apply only once for certification which is to be honored by all USDOT recipients in South Carolina. SCDOT will develop a uniform application letter and notice of certification. A uniform certification application developed by the USDOT will be designated as the official application.

SCDOT will review all DBE/ACDBE/SBE applications of Program Partners. This shall include firms that provide aviation, heavy highway and transit oriented services or products, including but not limited to, aviation specialty firms, heavy highway and bridge construction, products and services, planning and engineering consultants, specialty consultants, non-heavy construction, products and services, roadway suppliers, steel manufacturers or fabricators, food service firms, and structural construction firms.

If additional expertise is required, aviation specialty firms such as concessionaires may be collaboratively reviewed by SCDOT and an entity knowledgeable about airport issues.

## **ARTICLE II**

### **SERVICES**

#### **Section 2.1 South Carolina Unified Certification Program**

The SCUCP is hereby created and implemented in accordance with 49 CFR Part 26.81, as amended.

- a. SCDOT will follow all certification, recertification, and decertification procedures in accordance with the Certification Standards of 49 CFR Part 26, Subpart D, and the Certification Procedures of 49 CFR Part 26, Subpart E as applied by SCDOT in its DBE and SBE Program.

##### **1. Certification Location**

Applications are available from the South Carolina Department of Transportation (SCDOT), Disadvantaged Business Enterprise Office, 955 Park Street, Columbia, South Carolina 29201 or the SCDOT website at <http://www.scdot.org>. HQ SCDOT office will serve as the centralized location for processing applications and updating any changes as they are made. The mailing address is: SCDOT, Disadvantaged Business Enterprise Office, Room 117, Post Office Box 191, Columbia, South Carolina 29202.

## 2. Receipt of Application

The certification process starts with SCDOT's receipt of a completed Certification Application. SCDOT will log the application into the Certification Request database and assign the file to a Certification Program Analyst (hereinafter "Analyst") for review. To be processed, an application must contain all required documentation. If the required documentation is not included, the Analyst will promptly notify the applicant that the omitted documents must be provided. Applicants are urged to submit required information to SCDOT as soon as possible. Faxed documents will be accepted. Where the applicant has failed to provide the required information within a reasonable period, as determined by the Analyst, the Analyst will notify the applicant that consideration of the application will be discontinued unless the required information is received within fourteen (14) calendar days. If the information is not received within fourteen (14) calendar days, the applicant will be notified that the application has been closed and will be returned. The applicant can reapply anytime with all of the required documentation included.

## 3. Out-of-State Applicants

SCDOT will accept applications from firms located across state lines in accordance with USDOT's Interstate Certification Process.

## 4. Processing of Applications

SCDOT will process completed applications within ten (10) days for out-of-state firms and ninety (90) days for in-state firms after a complete application has been received. SCDOT may extend this time period once, for no more than an additional thirty (30) days, upon written notice to the firm.

At any point during the review process, an applicant may submit a written request to withdraw its application. Upon receipt of such a request, the applicant's file will be closed.

## 5. Onsite Review

After the complete application has been received, an onsite review with the firm will be conducted. Onsite reviews for out-of-state applicants will be conducted by their original jurisdiction of certification.

## 6. Approval Process

After the onsite review is completed and all requests for information are satisfied, the Analyst will prepare a summary of the application and make a recommendation to the Director, Disadvantaged Business Enterprise Office (hereinafter "Director"). The Director will issue a decision to the applicant in the form of a written letter.

## 7. Issuance of Notice of SCUCP Certification

Upon approval, a Notice of Certification will be issued to the applicant and include a Certification Letter, date of certification and a listing of the approved applicable areas of work.

## 8. Notice of SCUCP Denial

When a firm does not meet the DBE, ACDBE or SBE eligibility requirements at the time of application, the firm will be denied certification as a DBE, ACDBE or SBE by the Director. The firm will be provided a written explanation of the reasons for denial as required by 49 CFR Part 26.86. The denial will be the decision of the Director. If the applicant does not choose to appeal the decision, they may re-apply after a period of twelve (12) months from the date of the Letter of Denial.

## Section 2.2 Right to Appeal

A firm may appeal the decision of the Director. Appeals are to go to the South Carolina Administrative Law Court (ALC) and must be filed within thirty (30) days of receipt of the Letter of Denial, pursuant to the State Administrative Procedures Act, Section 1-23-310 et seq. Code of Laws of South Carolina (1976); or a firm may choose to appeal directly in writing to

the USDOT within forty-five (45) days of the date of final decision by the Director. Appeals to USDOT may be emailed to [S33AppealsManagementRecords@dot.gov](mailto:S33AppealsManagementRecords@dot.gov).

If the applicant does not appeal to the ALC or the USDOT within the allotted time, the denial becomes administratively final. When a decision of the Director to deny certification is upheld in the appeals process, the firm in question is not eligible to participate as a DBE, ACDBE or SBE on federally funded projects and may not reapply for DBE, ACDBE or SBE certification for at least one (1) year from the date of the Letter of Denial by the Director.

### Section 2.3 Expansion Request for Additional Types of Work

In accordance with 49 CFR Part 26.73(a), SCDOT will grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to demonstrate control of the firm. SCDOT may expand the list of approved work areas for a certified DBE, ACDBE or SBE after the firm has demonstrated its ability with respect to that type of work.

### Section 2.4 Unified DBE/ACDBE and SBE Directory

SCDOT is the only authorized agency to publish and maintain the Unified DBE/ACDBE and SBE Directory for the State of South Carolina.

SCDOT will maintain the unified DBE/ACDBE and SBE directory for all firms certified by SCDOT, to include the firm's name, address, telephone number, and the types of work the firm has been certified to perform as a DBE, ACDBE and SBE. SCDOT will make the Directory available as follows:

- a. An electronic version of the directory will be updated daily with additions, deletions, and other changes as they occur and in accordance with 49 CFR Part 26.81(g).
- b. The electronic version of the directory will be used as the official directory reference and available to the Program Partners and the general public on the SCDOT website at: <http://www.scdot.org>.
- c. An updated hardcopy version of the directory will be readily available at SCDOT, Disadvantaged Business Enterprise Office, 955 Park Street, Columbia, South Carolina.

## Section 2.5 Certification Standards

SCDOT shall cooperate fully with oversight, review, and monitoring activities of the USDOT and its operating administrations. SCDOT will follow the Certification Standards of 49 CFR Part 26, Subpart D and the Certification Procedures of 49 CFR Part 26, Subpart E in determining eligibility of firms to participate as a DBE, ACDBE or SBE in USDOT-assisted contracts.

Pursuant to 49 CFR Part 26.81(c), all certifications by SCDOT shall be certifications that have been made final before the due date for bids or offers on a contract on which an applicant firm seeks to participate as a DBE, ACDBE or SBE.

The SCUCP shall implement USDOT directives and guidelines concerning certification matters. All obligations of Program Partners with respect to certification and nondiscrimination will be carried out by SCUCP, and Program Partners may use only the SCUCP that complies with the certification and nondiscrimination requirements of 49 CFR Part 26.81.

## Section 2.6 Authority to Make Certification Decisions

SCDOT will make all DBE, ACDBE and SBE certification decisions on behalf of all Program Partners in the State of South Carolina. DBE, ACDBE and SBE certification decisions by SCDOT shall be binding on all parties to the Agreement.

## Section 2.7 Interface With Other UCPs

SCDOT may enter into written reciprocity agreements with other UCPs. Such an agreement will outline the specific responsibilities of each participant. SCDOT may accept the certification of any other UCP or USDOT recipient, but is not required to do so.

## Section 2.8 Program Partners Responsibility for Their Own DBE and SBE Program

SCDOT will not establish, recommend, or alter any Program Partner's overall DBE or SBE Program, other than to complement the Program Partner's approved program. DBE and SBE goal development, administration, monitoring, and reporting will remain the sole responsibility of the Program Partner.

## Section 2.9 Media Contacts

All “media” contacts related to the SCUCP or its activities are to be made by SCDOT. SCDOT will not handle or be responsible for any inquiries or criticisms outside its role as the lead agency. Program Partners shall refer all media contacts regarding the SCUCP Agreement to SCDOT and all responses will be made by SCDOT.

## Section 2.10 Resources and Expertise of the SCUCP

The Program Partners agree that SCDOT will provide the staff, physical space, website space, office supplies and travel necessary to carry out the obligations of the SCUCP. The administrative cost for the SCUCP will be absorbed by SCDOT for the first year of operation. The SCUCP funding for succeeding years will be negotiated between SCDOT and the individual Program Partners on an annual basis.

## Section 2.11 Decertification

SCDOT will take action to decertify a DBE, ACDBE or SBE firm if it is determined that it does not meet the eligibility standards in accordance with the certification procedures of 49 CFR Part 26, Subpart E. Certification challenges and ineligibility complaints should be forwarded to SCDOT for inquiry and/or investigation.

## Section 2.12 Compliance and Enforcement

SCDOT will notify the appropriate Program Partner when an enforcement issue is identified. The individual Program Partner is then responsible to take the appropriate enforcement action in accordance with 49 CFR Part 26, Subpart F, Compliance and Enforcement.

# **ARTICLE III**

## TERM AND SCOPE OF AGREEMENT

### Section 3.1 Term

This Agreement shall be effective immediately upon its execution by all the parties hereto and the approval of the SCUCP by the USDOT Secretary of Transportation. This Agreement and the SCUCP shall continue in force as long as required by federal laws and regulations, unless terminated pursuant to Section 3.2 of this Agreement.

### Section 3.2 Termination

Any party to this Agreement may terminate its relationship to the SCUCP by official notification including a showing of non-recipient status to the SCDOT. SCDOT will notify the USDOT of this request for termination.

### Section 3.3 Limited Agreement

This Agreement is limited in scope and nothing contained in this Agreement shall imply any relationship between any of the signing parties beyond the creation and implementation of the SCUCP.

### Section 3.4 Amendment of the SCUCP Agreement

SCDOT, as the lead agency, may make minor revisions to this document to facilitate processing of certifications without formal approval of Program Partners.

## **SCUCP Agreement Signature Page**

IN WITNESS WHEREOF, the parties have executed this SCUCP Agreement on the dates indicated below.

### **SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION**

By:

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Title:

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Date:

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### **PROGRAM PARTNER**

Agency Name:

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By:

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(Signature)

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(Printed Name)

Title:

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Date:

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Email:

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Address:

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Phone:

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