



South Carolina  
Department of Transportation

December 22, 2014

Mr. Rick Cotton  
City Administrator  
City of Clemson  
1250 Tiger Boulevard, Suite 1  
Clemson, South Carolina 29631

RE: SC Route 133 (College Avenue) Project  
FPA-05-10 with City of Clemson

Dear Mr. Cotton:

Enclosed you will find three original copies of Supplemental Agreement No. 1 to the existing Financial Participation Agreement (FPA-05-10) for the above referenced project.

Please read the Supplemental Agreement carefully to ensure it properly addresses the elements of the temporary shuttle bus service for Amtrak passengers. Upon the City's review and approval, please have Mayor Cook sign all three originals on page 3 and provide a witness signature. The Department will enter the date on page 1 and sign all three originals and return one fully executed original to you.

Please ensure that copies of the FULLY executed agreement between the City and Amtrak (Attachment 3) is returned with the three signed originals of FPA-05-10 Supplemental Agreement No. 1.

Please return all three signed originals to me at the following address:

Emily Toler  
SCDOT  
955 Park Street Room 216  
Columbia, SC 29202-0191

Thank you for your assistance with the Clemson project and this Agreement. If you have any questions or need additional information, please call me at (803) 737-1564 or email me at [toleref@scdot.org](mailto:toleref@scdot.org).

Sincerely,

Emily Toler  
Assistant Program Manager



CFDA No. 20.205  
Highway Planning & Construction

Project ID No.: \_\_\_\_\_  
Cost Center: \_\_\_\_\_  
WBS No.: \_\_\_\_\_  
Fund: \_\_\_\_\_  
PIN: \_\_\_\_\_  
Functional Area: \_\_\_\_\_

Financial Participation Agreement  
Between  
South Carolina Department of Transportation  
And  
City of Clemson

This Supplemental Agreement No. 1 executed on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, covers the financial responsibilities of the South Carolina Department of Transportation; herein after "SCDOT", and the City of Clemson; herein after "Participant" for the below described project.

WHEREAS, on February 1, 2010, the parties entered into FPA-05-10 (hereinafter referred to as the "Original Agreement") for the installation of street printing in the crosswalks, placement of brick paver decorative sidewalks at locations of existing decorative sidewalks, and placement of mast arm signals at the College Avenue intersection in the City of Clemson; and

WHEREAS, on March 1, 2010, the Participant remitted funds in the amount of Seventy-Eight Thousand Two Hundred \$78,200.00 Dollars to the SCDOT under the Original Agreement shown as Attachment 1;

WHEREAS, at the Participant's request, the SCDOT has agreed to modify the Original Agreement to revise the Project Description and the Funding as set forth below;

NOW, THEREFORE, in consideration of the several promises to be faithfully performed by the parties as set forth herein, the SCDOT and the Participant do hereby agree as follows:

PROJECT DESCRIPTION is hereby modified to add the following:

**Temporary Fixed Route Connector Bus Service from Clemson Amtrak station to and from Greenville Amtrak station**

As described in Attachment 2, the City of Clemson agrees to provide or have provided through a third party a Temporary Fixed Route CAT Bus Service for Amtrak passengers to and from the Clemson Amtrak station to and from the Greenville Amtrak station until the Clemson Amtrak station work is complete and the new platform is fully operational. It is estimated that the temporary shuttle/bus service will be required for a period of nine (9) to twelve (12) months. It is also estimated that this service will require approximately 6 hours of shuttle/bus operation time per day, seven (7) days a week. It is anticipated that only one shuttle/bus will be needed to meet the passenger demand. On rare occasions, it may require two shuttles/buses.

FUNDING:

SCDOT will reimburse Clemson for the cost of providing or having provided the shuttle/bus service as described above at the rate of \$65.00 per hour of bus operation, up to a contract maximum of \$200,000.00. The hourly rate includes all costs associated with the provision of this service, including, but not limited to coordination, management, oversight of the service, the operation of the shuttle/buses, insurance coverage as required by Amtrak, fuel costs, maintenance costs, driver's wages, and all incidentals required to provide the services. SCDOT will also reimburse Clemson, \$13,000 for an annual non-refundable risk fee, as outlined on page four of Attachment 3, upon the start of the fixed route connector bus service.

If the contract maximum is exceeded before the completion of construction a contract modification may be required.

INVOICING/PAYMENT SCHEDULE:

The City of Clemson will invoice SCDOT on a monthly basis with proper documentation to verify billable hours. SCDOT will reimburse the City of Clemson upon receipt of a satisfactory invoice with supporting documentation verifying the expenses to the Project.

NO FURTHER CHANGES:

All other terms and conditions of the Original Agreement not changed by this Supplemental Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on their behalf

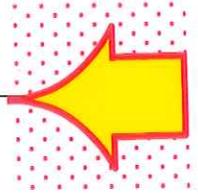
Signed, sealed and executed for the PARTICIPANT:

CITY OF CLEMSON

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_  
(Signature)



Title: \_\_\_\_\_  
Fed. ID#: \_\_\_\_\_

Signed, sealed and executed for SCDOT:

SOUTH CAROLINA DEPARTMENT OF  
TRANSPORTATION

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_  
Deputy Secretary for Engineering or Designee

REVIEWED BY:

\_\_\_\_\_  
Deputy Secretary for Finance & Procurement or  
Designee

PROFESSIONAL SERVICES CONTRACTING

By: \_\_\_\_\_  
Chief Procurement Officer or Designee

RECOMMENDED BY:

\_\_\_\_\_

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

FPA-05-10  
Supplemental Agreement No. 1

ATTACHMENT 1

March 1, 2010 3025A Invoice Number 411650  
(Payment was received on March 23, 2010, reference Receipt Number 063085)

FPA-05-10  
Supplemental Agreement No. 1

DEPARTMENT OF  
TRANSPORTATION

Columbia  
Form 3025-A (Rev. 1/95)

CHARGE MEMORANDUM

Columbia, S. C.  
March 1, 20 10

To: Finance Office

Please make the following charges:

To: Rick Cotton  
City Administrator  
City of Clemson  
1250 Tiger Boulevard, Suite 1  
Clemson, SC 29631

Accounts to be credited	Amount
39C200SPMC00522296 <i>Construction Charge Code</i>	\$78,200.00

Quantity	Items	Unit Cost	Amount	Audit
1.00	Cost for installation of mast arms, decorative sidewalk, and street print crosswalks in conjunction with SC133 College Avenue widening project in Pickens County, SC. File No. 39.111B, PCN 26058. This is the Participant's share of funding outlined in the Agreement between the Department and The City of Clemson, executed on February 1, 2010.		\$78,200.00	
Total			\$78,200.00	

Submitted by: Emily Toler	Recommended by:	1. <input type="checkbox"/> Remittance attached	<input type="checkbox"/> Check
Assist. Program Manager		2. <input checked="" type="checkbox"/> Submit Invoice	<input type="checkbox"/> Money Order
<i>Emily Toler</i> Title	<i>John P. ...</i> PM Title	<input type="checkbox"/> Cash	
Transaction approved:	Entries authorized:	Cashier's Receipt Validation	
<i>[Signature]</i>			
<i>Upshaw R.P.G. Eng.</i> Title	Title		

ATTACHMENT 2

Clemson Letter October 10, 2014 to Amtrak



Memo to: Todd Stennis & John Bender, Amtrak  
From: Rick Cotton  
Date: October 10, 2014  
Subject: Solution to Amtrak passenger service during NSRR bridge replacement project at Clemson Depot

Thank you for your time and thoughts during our phone conversation Thursday regarding a possible solution for accommodating the Amtrak passenger service during the construction of the temporary and permanent passenger loading platform at the Clemson Depot. The purpose of this memorandum is to recap that discussion and outline the process and procedures for temporary passenger boarding and alighting connections at the Clemson Depot, which would utilize connectivity by Clemson Area Transit bus service.

### **The Problem:**

Construction of the bridge replacement of the Norfolk Southern Railroad bridge was initiated over three years ago, and includes the reconstruction of the vehicular intersection of College Avenue and Highway 123 in Clemson, SC. Original plans for the temporary and permanent passenger platform were insufficient, so the project was delayed to obtain the necessary plans and approvals.

In October 2013, Amtrak, NSRR, SCDOT and City officials met and discussed several options for reducing construction costs and getting a final design for the temporary platform. Several meetings were held over a four month period to consider alternate options and solutions to the construction and financial situation. Ultimately, Amtrak and NSRR agreed to some items that would reduce the cost of constructing that platform, but it was dependent upon an approved waiver from the FRA. Without that waiver, construction costs would exceed the budget and no additional funds are forthcoming in the next several months (if not years). The Clemson City Council agreed to additional street closures, which eliminated the expensive costs of retaining walls at certain locations of the project. SCDOT prepared new construction plans and submitted the FRA waiver. Unfortunately, at this time, we are in the same situation that we faced a year ago.

The temporary passenger platform planned for the north side of the rail tracks is to be used for only a six to nine month period during construction. To avoid expensive costs for a facility that would only be used for a limited time period, the SCDOT petitioned the Federal Rail Administration for a waiver that would allow the temporary platform to be constructed at the same elevation as the existing platform. That platform is slightly lower than the rail height. Unfortunately, that waiver was not approved and the temporary platform must be constructed at least 8" above the top of rail. (The FRA letter is attached for your information.) This means that the project completion will endure another extensive delay. SCDOT is currently doing redesign and cost estimating of the required platform, which would require another extensive and lengthy review process by all parties to the project. Based on efforts of the past 12 months, we believe that this latest delay will cause the loss of yet another 12 months. In addition, SCDOT and the City of Clemson do not have any additional funding sources to provide for any extra costs that will be attributed to the redesign and increased construction requirements of the temporary platform. The frustration level of Clemson residents at the on-going construction condition at this site is extremely high. All parties involved with this project desire to see it completed as quickly as possible, including the construction of a new permanent Amtrak platform that will meet ADA requirements. Continued delays are in the best interest of no one.



### **A Non-Construction Solution:**

The City of Clemson operates a fixed-route transit system that commenced operations in 1996. Clemson Area Transit (CAT) operations serve the communities of Central, Pendleton, Seneca, Anderson County and Clemson, and carried 1.9 million riders in 2013. At peak daily operation, the system operates 19 buses. Four new Proterra electric buses were recently placed into service on the Seneca routes, which allowed us to add four diesel buses to our spare ratio. With this new addition of spare buses, we now have an option that was not available a year ago.

The City of Clemson proposes that we consider a “non-construction solution” to handling Amtrak passenger service during the six to nine month construction period, when the permanent platform will be reconstructed at its existing location. We propose to use the existing Amtrak waiting station at the Clemson Depot, but would transport those passengers to the Greenville, SC Amtrak Depot location for boarding or alighting the Amtrak train. A CAT bus would transport these passengers directly to the Greenville Depot, which Google maps says is a distance of 28 miles and takes 37 minutes to travel. Because of the early morning and light night hours of the Amtrak train arrival – there will not be any traffic congestion problems that would delay the bus trip. The same bus would pick up the Clemson bound passengers at the Greenville station and return them to the Clemson Depot. (In fact, this bus will likely arrive at Clemson sooner than the Amtrak train would have arrived for the south bound arrivals.)

We would anticipate that we would utilize one CATbus each morning and evening, and would dedicate a spare bus that is immediately available due to any unforeseen circumstance. On those few days when Amtrak anticipates more than 25 – 30 passengers, we could run both buses on the route. I would assume that Amtrak can provide an estimated number of passengers on a daily basis – and we could call every day, if needed, to obtain the ticketed passenger count for the following day. We are operating 40’ Nova buses, which seat 38 persons, without baggage. Some of the seat space would be reserved for luggage. All buses are handicapped accessible, with wheel chair locking mechanisms when required, to accommodate persons with disabilities.



All CATbus drivers are fully trained to FTA standards, including commercial drivers license, and specialized training for the specific buses that are operated. The buses both kneel and extend the entrance ramp for ease of entrance for persons with disabilities. Buses are clean and attractive.



The City of Clemson, in cooperation with SCDOT, would offer this connector route to Amtrak with no cost to either Amtrak or your passengers. We recognize that this possible solution will likely require approvals from all parties, including the cost of this service being classified as “a reimbursable expense under temporary traffic control.” We also understand that a significant level of documentation would be

required to justify and adequately demonstrate the feasibility of this plan

Initially, we are planning and budgeting for 4 hours of time for each daily trip (8 hours of bus time per day) for the duration of the construction period that the Clemson platform is not in service. In reviewing the Crescent Route time chart, the bus would depart Clemson Depot at 4:00 a.m., to allow arrival at Greenville at 4:40 a.m. each day. The train is scheduled to arrive in Greenville at 4:54 a.m. and depart at 5:01 a.m. Clemson bound passengers would off-load at Greenville and be transported to the Clemson Depot for their final arrival location. For north-bound travelers, passengers would depart the Clemson Depot at 10:00 p.m., for arrival at Greenville at 10:40 p.m. That evening train arrives in Greenville at 10:53 and departs at 10:58 p.m. on normal schedule. Again, those passengers who alight in Greenville for a Clemson final destination would be transported to the Clemson Depot with this same bus. All other Amtrak passengers who are not getting on/off for a Clemson destination would ultimately benefit from this arrangement, because they will avoid sitting on the train at the previously scheduled Clemson stop and boarding times.

The Clemson Depot is located on Highway 123 in Clemson. The Greenville, SC Depot is only 4 blocks north of Highway 123 – just 28 miles to the east. As was noted earlier, the time of day travel for this connector route will avoid peak vehicular traffic periods.

### **A Win for All Parties?**

We believe that this solution to the on-going construction dilemmas that have plagued this construction project can benefit all parties. The overall construction project can be moved forward in an expedited manner, and the cost of that temporary platform could be avoided entirely. The money that would have been used for the previously designed platform can be utilized by SCDOT for the costs of operating the CATbus connector route from the Clemson Depot to the Greenville Depot. No additional lost time will be realized for redesign of the temporary platform or lengthy review and approval periods – which could take another year. Amtrak will not lose any passenger counts or their Clemson market. On personal observation, I know that a significant amount of Amtrak’s passengers at this location are Clemson University students – and they are accustomed to and enjoy riding CATbus on a daily basis. They would not find this a poor solution to this situation.

We acknowledge that Amtrak and the City of Clemson would need to provide additional efforts to advertise and market this temporary depot departure and arrival situation. We are prepared to work with Clemson University to ensure that the student population is aware of and can plan for this temporary situation. We will also use direct marketing efforts to notify all Clemson households of the Amtrak connection. We have an e-mail notification system and distribute a quarterly “Clemson Connection” newsletter (mailed to each utility customer’s home address. These marketing efforts will ensure that local residents are aware of this arrangement.



We would also propose that this solution not be implemented until such time as all of the remaining issues are resolved by SCDOT and the general contractor on the project. Likewise, we would want to ensure that the mobilization of the contractor to start work is factored into a starting date for the CATbus - Amtrak connector. Simply stated, we would desire to see construction work on the project started the day after the CATbus connector route begins operations to the Greenville Depot. I would hope that all of this could be achieved by shortly after the start of the Clemson University spring semester (January 12, 2015).

In visiting with all of the parties who have been involved with the NSRR bridge replacement project, I know that every person desires to see this project get restarted and completed as soon as possible. It has been a frustrating and complicated project – and Murphy's Law has been a problem component. However, I believe that this solution can get the project back on track. We hope that you will give very strong consideration to this option and solution to keeping Amtrak passengers accommodated at the Clemson Depot. As you think through the details that would be required to make this solution happen, we would be glad to work with you in dealing with any issues that need to be resolved. Our CATbus operators are excited about becoming a positive part of this situation – and they will deliver outstanding service to our customers.

Thank you for your consideration of this proposal and solution. I look forward to hearing from you in the near future – and hopefully carrying this proposal to all of the other parties involved with the construction project.

Sincerely,

Rick Cotton  
City Administrator

FPA-05-10  
Supplemental Agreement No. 1

ATTACHMENT 3  
Agreement Between Clemson and Amtrak

**NATIONAL RAILROAD PASSENGER CORPORATION  
AND  
CITY OF CLEMSON, SOUTH CAROLINA**

**TRANSPORTATION AGREEMENT**

**THIS AGREEMENT**, made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the NATIONAL RAILROAD PASSENGER CORPORATION (hereinafter referred to as "AMTRAK"), a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia and having its principal office and place of business in Washington, DC, and THE CITY OF CLEMSON, SOUTH CAROLINA, (hereinafter referred to as "CITY"), a municipality organized under the laws of the State of South Carolina and having a principal office in Clemson, South Carolina (the "Agreement").

**WHEREAS**, the South Carolina Department of Transportation is engaged in the construction of the bridge replacement of the Norfolk Southern Railroad Bridge, which includes the reconstruction of the vehicular intersection of College Avenue and Highway 123 in Clemson, SC; and

**WHEREAS**, As a result of the construction, the South Carolina Department of Transportation has an obligation to build a temporary passenger platform for the north side of the rail tracks to accommodate Amtrak's passengers during construction; and

**WHEREAS**, the South Carolina Department of Transportation and CITY do not have the funding to provide for any extra costs that will be attributed to the redesign and increased construction requirements of the temporary platform; and

**WHEREAS**, the CITY has proposed a "non-construction solution" to handling Amtrak passenger service during the six to nine month construction period, when the permanent platform the permanent platform will be reconstructed at its existing location; and

**WHEREAS**, CITY's solution proposes to use the existing Amtrak waiting station at the Clemson Depot, but would transport those Amtrak passengers directly to Greenville Depot by Clemson Area Transit (CAT) bus; and

**WHEREAS**, Amtrak is agreeable to CITY's solution;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

**SECTION 1 – SCOPE OF SERVICES**

A. CITY shall provide connecting bus service between Clemson, South Carolina and Greenville, South Carolina. Service provided by CITY will be represented as a connecting service to AMTRAK. Except as otherwise noted herein, passengers ticketed by Amtrak utilizing the service of CITY will do so under the same terms and conditions and will be afforded the same level of service of any other passenger of CITY. Amtrak passengers will be considered passengers of CITY while being transported under the terms of this Agreement.

B. Schedule:

At 4:00 AM, a bus which Amtrak shall number as schedule 6219 or similar will depart Clemson station, arriving at the Greenville Station at 4:40 AM. This bus will connect to train 19.

After train 19 arrives and any connecting passengers transfer to the bus, a bus will depart Greenville at 5:10 AM arriving at Clemson at 5:50 AM. Amtrak shall number this bus 6119 or another number designated by Amtrak.

At 9:45 PM, a bus which Amtrak shall number as schedule 6220 or a similar number will depart from Clemson and arrive at Greenville at 10:35 PM to connect with train 20.

After train 20 arrives and any connecting passengers transfer to the bus, a bus will depart Greenville at 11:05 PM arriving at Clemson at 11:40 PM. Amtrak shall number this bus 6120 or another number designated by Amtrak.

The exact times may be adjusted to fit road conditions and the schedules of connecting trains. Buses will hold for passengers connecting from trains. A timetable is shown below.

6119*	6120*	Thruway Number		6219	6220	
Daily	Daily	Frequency		Daily	Daily	
5:10 AM	11:05 PM	Dp ↓	Greenville, SC	Ar ↑	4:40 AM	10:35 PM
5:50 AM	11:40 PM	Ar ↓	Clemson, SC	Dp ↑	4:00 AM	9:45 PM

### C. Missed Connection Policy

#### Late Train

When trains are late, CITY will hold connecting bus service to wait for the late train or else provide alternate transportation acceptable to AMTRAK station personnel.

#### Late Bus

In the event CITY misses the train connection due to late operation or cancelled or annulled operation, CITY will reimburse AMTRAK for any and all costs, including passenger overnight housing, meals, or alternative transportation.

In the event weather makes the roads impassable as determined by local authorities, CITY will assist AMTRAK in providing passengers with a safe and comfortable location to wait for passable roads.

## **SECTION 2 – TERMS OF SERVICE**

A. The date of the start of this connecting service shall be established through mutual agreement among AMTRAK, CITY, the South Carolina Department of Transportation, and Norfolk Southern Railway.

B. The above bus schedule is based on upon connections to and from trains 19 and 20 in Greenville, South Carolina. If train schedules are changed, or if operating conditions require, the bus schedule will be adjusted accordingly to provide reliable connections.

C. Nothing in this Agreement shall be construed as limiting CITY's right to issue on-board tickets for its own services for the convenience of AMTRAK passengers and the general public.

D. AMTRAK provides checked baggage service to/from Greenville, SC. AMTRAK policy states that passenger's checked baggage is limited to three (3) pieces per ticket 50 pounds per piece (total of 150 pounds). The CITY will accommodate AMTRAK passengers' baggage consistent with safe operation. This Agreement does not require CITY to check baggage, and Amtrak will not represent CITY's transportation service as offering checked baggage. Buses will be listed as having "carry-on" baggage rules.

E. AMTRAK and CITY shall jointly establish protocols and processes mutually agreed upon for local management of connections, including protocols for communication between station personnel, bus dispatchers, and bus operators.

F. No advertising or news releases with respect to this Agreement or with respect to the services offered to the public pursuant hereto shall be produced or issued except by prior mutual agreement in writing between the parties hereto; provided, however, that neither party shall withhold such agreement unreasonably. Trademarks and service marks shall be used only with the written permission and approval, and in accordance with the established corporate procedures, of each party.

G. All expenses for telegrams, telephone calls, radiograms, or other communications sent in connection with or pursuant to this Agreement shall be borne by the originator.

H. Baggage of passengers is to be checked to the point of interchange between AMTRAK and CITY, and baggage of passengers accepted by CITY shall be accepted subject to the applicable rates or other regulations of CITY and AMTRAK with respect to limitations of size, weight, and liability. Passengers originating on CITY are responsible for the retrieval of checked baggage from CITY at the point of interchange and transfer to AMTRAK. Passengers originating on AMTRAK are responsible for the retrieval of checked baggage from AMTRAK and for the transfer and checking of baggage on the CITY at the point of interchange. CITY agrees to allow passengers to bring carry-on baggage in accordance with AMTRAK baggage rules.

I. Passengers requiring special assistance will be accommodated by the CITY under the Americans with Disabilities Act. CITY will provide accessible transportation to AMTRAK's reserved ADA passengers. All vehicles used for connecting service shall be accessible.

J. Nothing herein shall be deemed to require the parties hereto to initiate or maintain service between locations other than those specified herein, or to provide passenger or baggage transportation between local stations or terminals of the respective parties.

### **SECTION 3 - CONSIDERATION**

In consideration for Amtrak discharging CITY's obligation to provide a temporary platform at the Clemson Depot, CITY shall provide the services described herein without cost to AMTRAK. Additionally, CITY shall pay to Amtrak an annual nonrefundable risk fee of \$13,000 U.S. dollars. Upon execution of this Agreement, or as soon as practicable, and each year on the anniversary date of execution of this Agreement, or as soon as practicable, Amtrak shall issue an invoice to CITY for this nonrefundable risk fee and such invoice shall be paid within thirty (30) days. In the event of a termination of this Agreement for any reason, any risk fee paid to Amtrak shall not be refunded or subject to proration.

### **SECTION 4 - INSURANCE**

A. CITY shall procure and maintain, at its own cost and expense during the entire period of performance under this Agreement, the types of insurance specified below. The CITY shall submit a certificate of insurance giving evidence of the required coverage, prior to the commencement of transportation services and on an annual basis thereafter. All insurance shall be procured from insurers authorized to do business in the jurisdiction (s) where transportation services are to be performed. The insurance shall provide for thirty (30) day written notice to be given to AMTRAK in the event coverage is substantially changed, canceled, or not renewed.

1. Worker' Compensation Insurance, complying with the requirements of the statutes of the jurisdiction (s) in which the transportation services will be performed, covering all employees of the CITY. Employer's Liability coverage with limits of liability of not less than \$1,000,000 each accident or illness shall be included.

2. Comprehensive General Liability Insurance, covering liability imposed upon the CITY with respect to all services to be provided and all obligations assumed by the CITY under the terms of this Agreement, including contractual liability coverage. Coverage under this policy, or policies, shall have limits of liability of not less than \$ 2,000,000 Dollars per occurrence, combined single limit for bodily injury and property damage (including loss of use) liability.

3. Automobile Liability Insurance, covering the liability of the CITY arising out of the use of all owned, non-owned, hired, rented or leased vehicles which bear, or are required to bear, license plates according to the laws of the jurisdiction in which they are to be operated. Coverage under this policy shall have limits of liability of not less than \$ 2,000,000 per occurrence, combined single limit, for bodily injury, and property damage liability.

#### **SECTION 5 – PRIOR AGREEMENTS**

This Agreement supersedes, replaces, and terminates as of the effective date hereof any and all preexisting agreements between the parties hereto relating to the services to be provided by the CITY under this Agreement.

#### **SECTION 6 – RENEWAL AND TERMINATION**

A. This Agreement shall remain in force until terminated. This Agreement may be terminated by AMTRAK by giving thirty (30) days of notice in writing to CITY. This Agreement may be terminated by CITY with written notice to AMTRAK upon resumption of passenger rail service to and from the Clemson, South Carolina passenger rail station. This Agreement may not be terminated by CITY prior to resumption of passenger rail service to and from Clemson, SC.

B. Termination pursuant to the provisions of this Section 7 shall not relieve either party hereto of any obligation arising or incurred hereunder prior to the effective date of such termination.

#### **SECTION 7 – ASSIGNMENT**

CITY shall neither assign nor delegate its responsibilities under this Agreement without the prior written consent of AMTRAK. AMTRAK shall have the right to assign all or part of this Agreement without obtaining consent from CITY or its surety(ies), if any.

#### **SECTION 8 – NOTICES**

Any notices permitted or required to be given hereunder shall be in writing and shall be either delivered by hand, sent by certified mail, return receipt requested, or sent by telegram with confirmed delivery:

If to AMTRAK, addressed to:

ATTN: Director Connectivity and Thruway Services  
Adam Krom  
Thirtieth Street Station, Box 14  
2955 Market Street  
Philadelphia, PA 19104

If to CITY, addressed to:

U.S. Mail:

Richard E. Cotton  
City Administrator  
City of Clemson  
1250 Tiger Boulevard, Suite 1  
Clemson, SC 29631

Each party hereto may change the address at which it shall receive notification hereunder by notice in writing to the other party hereto.

## **SECTION 9 – CONFIDENTIALITY**

A. *Confidential Information.* Confidential Information means any and all information provided by or on behalf of AMTRAK to CITY that is marked “Confidential” or with another similar legend or is reasonable understood to be confidential given the circumstances. Confidential Information includes all passenger information. Confidential Information shall expressly include any and all information derived from the foregoing Confidential Information.

B. *Obligations.* Unless otherwise agreed to in writing by AMTRAK, CITY shall: (a) keep all Confidential Information in strict confidence; (b) use Confidential Information only for purpose it was provided under this Agreement (the “Business Purpose”); and (c) not disclose or reveal any Confidential Information to any person, other than CITY’s employees, contractors and agents who are actively and directly involved in the Business Purpose and who have a need to know the Confidential Information and who have agreed to keep the Confidential Information confidential in accordance with the terms and conditions of this Agreement. CITY shall treat all Confidential Information of AMTRAK by using at least the same degree of care, but no less than a reasonable degree of care, as it accords its own Confidential Information. Any copies made of the Confidential Information, or any part thereof, must be labeled or affixed with an appropriate confidentiality, proprietary and/or trade secret notice.

C. *Return or Destruction of Confidential Information.* CITY shall return to Amtrak all written materials embodying Confidential Information or destroy such materials promptly, including all copies made by CITY, at the request of AMTRAK or upon termination of this Agreement. CITY agrees to provide AMTRAK a destruction certificate if so requested. Notwithstanding the return or destruction of Confidential Information, CITY will continue to be bound by the terms of this Agreement.

E. *Equitable Relief.* CITY acknowledges that any use or disclosure of the Confidential Information that is inconsistent with the restrictions set forth in this Agreement will cause immediate irreparable harm to AMTRAK for which there is no adequate remedy at law. Accordingly, CITY agrees that AMTRAK shall be entitled to immediate and permanent injunctive relief from a court of competent jurisdiction in the event of any such breach or threatened breach. CITY agrees and stipulates that AMTRAK shall be entitled to such injunctive relief without posting a bond or other security.

F. *Duty to Notify.* CITY agrees that it shall immediately notify AMTRAK in writing of any known or suspected disclosure, access or use of the Confidential Information that is not authorized under this Agreement.

G. *Third-Party Beneficiaries.* To the extent AMTRAK discloses, or provides for the disclosure of, Confidential Information of a third party, that third party shall be a third-party beneficiary to this Agreement and shall be entitled to enforce this Agreement directly against CITY as the third party's interests may warrant.

H. *Audit.* AMTRAK reserves the right to audit CITY's security practices and procedures (and those of its contractors and agents, as applicable) to ensure that it is in compliance with the terms of this Section.

**SECTION 10 – ENTIRE AGREEMENT**

A. This instrument constitutes the sole and entire agreement between the parties hereto for services to be rendered hereunder. No change or modification in this Agreement shall be of any force or in effect unless reduced to writing, dated, and executed by both parties hereto.

B. The captions used herein are for convenience only and shall not affect the construction of any of the terms and conditions hereof.

C. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the District of Columbia.

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed by their duly authorized officers in multiple original counterparts on the day and year first above written.

NATIONAL RAILROAD  
PASSENGER CORPORATION

BY: \_\_\_\_\_  
(Signature)

NAME: \_\_\_\_\_  
(Print)

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

DATE: \_\_\_\_\_

CITY OF CLEMSON,  
SOUTH CAROLINA

BY: J.C. Cook III  
(Signature)

NAME: J.C. Cook III

TITLE: Mayor

DATE: 12/16/14

**Amtrak Signature is Required.  
Provide SCDOT copy of fully  
executed agreement with all  
signatures.**