



BERKELEY COUNTY

**Procurement Department
Scott Maxie, CPPB, Director**

**Post Office Box 6122
Moncks Corner, South Carolina 29461-6120
PH: (843) 719-4118 FX: (843) 719-4117**

INVITATION FOR BID

IFB TITLE: MOUNT HOLLY COMMERCE PARK IMPROVEMENTS PHASE I

IFB NUMBER: BCWS-19-19/20

CLOSING DATE AND TIME: May 26, 2020 @ 11:00 AM Local Time

DEADLINE FOR WRITTEN QUESTIONS: May 7, 2020 @ 12:00 PM EST

OVERVIEW: Construction of a new Pump Station 094 and new 24" force main

BONDS: Bids in excess of \$100,000.00 will require a 5% Bid Bond.

STATE REVOLVING FUND (SRF) REQUIREMENTS: Any contract or contracts awarded under the Invitation for Bid are expected to be funded in part by a loan from the South Carolina State Revolving Fund program and the South Carolina Rural Infrastructure Authority under project number 496-19. Offers must comply with all applicable State and Federal requirements identified in the Solicitation Documents including the David-Bacon Act and "American Iron and Steel" Provisions.

Invitation for Bid Documents Available: Offerors must be registered, free of charge, to view and download a copy of the Invitation for Bid document and receive electronic notification of any addenda from the Berkeley County Web Site:

WEB ADDRESS: <https://www.berkeleycountysc.gov/drupal/procurement>

Invitation for Bid
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ATTACHMENTS

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SECTION 3
INSTRUCTIONS TO BIDDERS

1. Bids shall be submitted on the form(s) provided, to the **Berkeley County Council Office**, before the day and hour set for opening of bids. Bids shall be in a sealed envelope marked with the Invitation for Bid Number "**BCWS-19-19/20**" Bid Name "**Mount Holly Commerce Park Improvements Phase I**" and the Company Name and Address of the Bidder. Bids will be publicly opened and read aloud. Bidders are invited to attend the bid opening.

USPS PROPOSAL TO BE MAILED TO:

Berkeley County Administration Building
ATTN: Shelley Forest- County Council
PO Box 6122
Moncks Corner, S.C.
29461-6120

HAND CARRY/DELIVERY SERVICE TO:

Berkeley County Administration Building
ATTN: Shelley Forest- County Council
Room Number 101
1003 U.S. 52
Moncks Corner, S.C. 29461

2. **One (1) clearly identified original and three (3) complete copies are required.** All bids received after the deadline will be returned unopened. The Bid must be complete, clear, and concise. (8 ½ x 11 pages, printed on one side only).
3. It shall be the intent of the bid package to describe the minimum requirements for construction.
4. Bids must be submitted by the time, date and exact location specified to be considered. No late Bids will be accepted.
5. All bids shall be entered in ink or typewritten and shall remain firm for a period of not less than **sixty (60) days**. Mistakes may be crossed-out and corrections inserted adjacent thereto, and shall be initialed, in ink, by the person signing the bid.
6. Offerors mailing a Bid should allow sufficient mailing period to insure timely receipt of Bid. Berkeley County is not responsible for Bids delayed by mail and/or delivery services of any nature. Bids received after the set time for closing will be returned unopened.
7. Bids may be withdrawn by offeror prior to, but not after, the time set for the closing. A telegraphic request is acceptable provided it is received before the closing, and written confirmation of the withdrawal has a postmark prior to the closing.
8. Offers, amendments thereto or withdrawal requests must be received by the time advertised for Invitation for Bid closing to be timely filed. It is the offeror's sole responsibility to ensure that the documents are received by the person (or office) at the time indicated in the solicitation document.

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INSTRUCTIONS TO BIDDERS CONTINUED

9. Bidders must clearly mark as "Confidential" each part of their offer which they consider to be proprietary information that could be exempt from disclosure under Section 30-4- 40, Code of Laws of South Carolina, 1976 as amended (Freedom of Information Act). If any part is designated as "confidential", there must be attached to that part an explanation of how this information fits within one or more categories listed in Section 30-4-40. Berkeley County reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against The County and/or its agents for any determination in this regard.

Berkeley County reserves the right:

- 9.1 To accept or reject any or all bids received as a result of this solicitation, or to cancel in part or in its entirety this solicitation if it is in the best interest of the County to do so;
 - 9.2 To waive any or all informalities;
 - 9.3 To solicit additional information from the Offerors, or any one Offeror should Berkeley County deem such information necessary;
 - 9.4 To consider modifications received at any time before the award is made, if such action is in the best interest of the County; and,
 - 9.5 To negotiate contract terms, conditions
10. By submission of an offer, you are guaranteeing that all goods and services meet the requirements of the solicitation.
11. If the Offeror discovers any ambiguity, conflict, discrepancy, omission or other error in the Invitation for Bid, it shall immediately notify the County's Director of Procurement of such error in writing and request modification or clarification of the document. The Offeror is responsible for clarifying any ambiguity, conflict, discrepancy; omission or other error in the written request for bid, or it shall be deemed waived.
12. Failure to submit all required information may be determined as a non-responsive bid.
13. A conditional or qualified Bid will not be accepted.
14. Unit price will govern over extended price; errors in mathematics will be corrected.
15. ADDENDA: If it becomes necessary to revise any part of this solicitation, an amendment will be posted on the Web Page at the address provided on the Cover Sheet of this solicitation. All amendments become part of the Invitation for Bid, and are contractually binding whether or not received by the Offeror.

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INSTRUCTIONS TO BIDDERS CONTINUED

15. ADDENDA CONTINUED: Changes or corrections may be made in the Bid Documents after they have been issued and prior to the Bid due date. In such cases, written Addenda describing the changes or corrections will be released by the County's Procurement Department. All Addenda shall take precedence over the original portion of the Request for Informal Bids and shall be considered and included in the Bidder's Lump Sum Bid amount. All Addenda shall become part of the Contract Documents and be acknowledged in the Bid Documents.
16. CONTRACT DOCUMENTS: The Contract Documents will consist of the County-Contractor Contract, the conditions of the Contract (general, supplementary and other conditions), the drawings, the specifications, work requirements, solicitation documents and all Addenda issued prior to, and any modifications issued after the execution of the Contract.
17. BIDDER'S REPRESENTATION: Each Bidder, by making his Bid represents that:
- a) He has read and understands all documents relating to the project and that his firm holds a current State of South Carolina Contractor's License sufficient for the specified construction, and; therefore, his Bid is made in accordance herewith.
 - b) He has visited the site, has familiarized himself with the local conditions under which the work is to be performed, and has correlated his observation with the requirements of the proposed Project documents.
 - c) His Bid is based upon the specified materials, systems, labor, supervision, supplies, work sequence requirements, taxes, insurance, permits, bonds and all other costs, incidental or otherwise, as would reasonably be required and expected for the project, required by the solicitation documents, without exception.
18. BID AMOUNT: All Bidders shall submit lump sum totals for a turn-key, complete Project.
19. LUMP SUM TOTAL BID AMOUNT: The lump sum total bid amount as submitted shall encompass all Bidder cost, incidental or otherwise, for providing and accomplishing the total Work requirements as specified, complete and in accordance with the plans, specifications, General Terms and Conditions and requirements of the Contract and Bidding Documents.
20. PROJECT COMPLETION TIME: The commencement date shall be as agreed between the Successful Bidder and the County as indicated within the Notice to Proceed. **All Work shall be substantially completed within 365 calendar days from the Notice to Proceed.** Final Completion shall occur within 395 calendar days from the Notice to Proceed.

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INSTRUCTIONS TO BIDDERS CONTINUED

21. LIQUIDATED DAMAGES: The Successful Bidder shall agree that if the Work, or any part thereof, is not completed within the time agreed and indicated in the Contract Document that he shall be liable to the County in the amount as stipulated below for each and every calendar day the completion of the Work is delayed beyond the time provided in the Contract.
- A) Substantial Completion: The Successful Bidder shall pay the County \$800.00 for each day that expires after the time specified in Paragraph 20 above for Substantial Completion until the Work is substantially complete.
- B) Final Completion: After Substantial Completion, if the Successful Bidder shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, the Successful Bidder shall pay the County \$400.00 for each day that expires after such time until the Work is completed and ready for final payment.
22. PROGRESS PAYMENTS: Progress payments shall be allowable for this project.
23. PAYMENT: All payments by the County shall be in accordance with the General Terms and Conditions of the Contract documents contained herein. The Successful Bidder shall update and revise the Application for Payment. Failure to provide an updated schedule will be cause to withhold payments due until the deficiency has been remedied.
24. LAWS, REGULATIONS, ORDINANCES, AND RULES: All applicable laws, ordinances, rules and regulations of any regulatory agency shall be binding upon the Bidder throughout the term of the Contract. The Bidder shall be responsible for compliance with all such laws, ordinances, rules and regulations and shall hold the County harmless and indemnify same in the event of non-compliance.
25. DEFAULT: In case of default, Berkeley County reserves the right to purchase any or all services and materials in the open market, charging contractor with any excessive costs. Should such charges be assessed, no subsequent offers of the defaulting contractor shall be considered until the assessed charge has been satisfied.
26. AWARD: The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
27. VERBIAGE: The words "Contractor", "Vendor", "Bidder", "Offeror", "Consultant", "Proposer", are used interchangeably throughout this IFB to define the companies submitting bids, and replace terms such as person(s), firm(s), or corporation(s).

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INSTRUCTIONS TO BIDDERS CONTINUED

28. SUBCONTRACTORS: In order for the Bid to be considered as responsive, the following shall be met:
- A) Bidder shall set forth in his Bid the name and location of the place of business of each subcontractor, as may be specified within the Bid Document, who will perform work or render service to the Bidder to or about construction, or who will specifically fabricate or install a portion of the Work. If the Successful Bidder determines to use his own employees to perform any portions of the Work for which he would otherwise be required to list a subcontractor and if the Successful Bidder is qualified to perform such work under the terms of the solicitation document, the Successful Bidder shall indicate this in his Bid and not subcontract any of that work except with the approval of the County for good cause shown.
 - B) Failure to list subcontractors in accordance with this section may render the Successful Bidder's Bid unresponsive or non-conforming.
 - C) No Bidder whose Bid is accepted shall substitute any person as a subcontractor in place of the subcontractor listed in the original Bid, without the County's prior approval.
 - D) Where substitution is allowed, the Successful Bidder, before obtaining prices from any other subcontractor, must attempt in good faith to negotiate a subcontract with at least one (1) subcontractor whose Bid was received prior to the submission of the Successful Bidder's Bid.
29. BIDDER QUALIFICATIONS: Before a Bid is considered for award, the Bidder may be requested by the County to submit a qualified statement regarding his firm. Offeror must, upon request of the County, furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of this bid. The Procurement Department reserves the right in the best interest of the County to make the final determination as to the Offeror's ability to provide the services requested herein, before entering into any contract.
30. INSURANCE: The Successful Bidder shall provide a Certificate of Insurance to the County in accordance with the General Terms and Conditions of the Contract documents.
31. INTERGOVERNMENTAL PURCHASING: Vendor may agree to extend their cost to the local governments in the State of South Carolina with mutual agreement of both parties.
32. AFFIDAVIT OF NON-COLLUSION: An Affidavit of Non-Collusion contained herein, shall be signed, notarized and attached to and become a part of the Bid. **BIDS SUBMITTED WITHOUT THIS AFFIDAVIT MAY BE REJECTED AS UNRESPONSIVE.**
33. AFFIDAVIT OF DELINQUENT TAX: An Affidavit of Delinquent Tax contained herein, shall be signed, notarized and attached to and become a part of the Bid. **BIDS SUBMITTED WITHOUT THIS AFFIDAVIT MAY BE REJECTED AS UNRESPONSIVE.**

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INSTRUCTIONS TO BIDDERS CONTINUED

34. REFERENCES: All Bidders shall submit and include with their Bid Documents, selected projects which they have been awarded, and are in progress or has completed for Towns, Cities, Counties, Municipal or State Governments, educational or health institutions which will exemplify expertise in this Project by the firm and by the proposed superintendent. A minimum of three (3) references shall be submitted.
35. PROJECT PROGRESS SCHEDULE: Each Bidder shall develop and include with his Bid Documents a Project Progress Schedule. The County's example form has been provided within the solicitation for this purpose; however, Bidders may use and submit a computerized document that will provide the necessary information. The Project Progress Schedule(s) submitted shall not exceed the time limits stipulated under the Contract Documents.
- Categories within such a schedule(s) shall be prioritized by sequence of project events and contain milestones indicating the starting, duration and completion of each category. Calendar dates shall not be used when developing milestones in the solicitation stage. All Bidders shall indicate milestones in "number of days", or weeks, after the Notice to Proceed is issued by the County. This schedule(s) will be reviewed and an acceptable schedule shall be included with the Contract.
36. DRUG FREE WORKPLACE CERTIFICATE: Bidder shall comply with the South Carolina Drug-Free Workplace Act, Section 44-107-10 et seq., South Carolina Code of Laws (1976, as amended) and shall file a certification form with Berkeley County in accordance with the same. Aforesaid certification form is provided by Berkeley County in this Request for Bid and shall be executed by the Bidder (or, in case of a corporation, by a duly authorized representative of the corporation) and shall be delivered to Berkeley County together with the Bid.
37. LOCAL RESIDENT VENDOR PREFERENCE: An Affidavit of Local Resident Vendor Preference contained herein, SHALL BE signed, notarized and attached to and become a part of the submittal. **(Local Preference does not apply if bid amount is over \$750,000.00)**
38. ADDITIONAL INFORMATION/QUESTIONS: Offerors requiring additional information may submit their questions in writing. Questions may be directed to Scott Maxie, CPPB, via email at Scott.Maxie@berkeleycountysc.gov. **The deadline for submitting written questions is May 7, 2020 @ 12:00 PM EST.** Verbal information obtained otherwise will not be considered in the awarding of the bid.

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SECTION 4
LOCAL REFERENCE

Amended Procurement Ordinance Bill 16-08 7/25/2016

Sec. 50-64(h) Local vendor preference (State preference has been repealed)

- (1) *Supply vendors*: A responsive and responsible county supply vendor who is within five percent of the lowest non-local bidder, may be given the opportunity to match the bid submitted by the non-local bidder and thereby be awarded the contract. This preference shall apply only when purchases are \$5,000.00 or more in value.

A vendor shall be deemed a county supply vendor if such vendor be an individual, partnership, association or corporation that is authorized to transact business within the state, has a physical business address located and operating within the limits of the county and has been doing business in the county for a period of 12 months or more prior to the bid opening date, the vendor maintains a representative in inventory of commodities within the county and the vendor provides proof of payment of all applicable the county taxes and fees.

- (2) *Service vendors*: A responsive and responsible county service vendor who is within five percent of the lowest non-local bidder, may be given the opportunity to match the bid submitted by the non-local bidder and thereby be awarded the contract. This preference shall apply only when purchases are \$5,000.00 or more in value.

A vendor shall be deemed a county service vendor if such vendor be an individual, partnership, association or corporation that is authorized to transact business within the state, has a physical business address located and operating within the limits of the county and has been doing business in the county for a period of 12 months or more prior to the bid opening date, and the vendor provides proof of payment of all applicable the county taxes and fees.

- (3) *Construction vendors*:

- a. A responsive and responsible county construction vendor who is within five percent of the lowest non-local bidder, may be given the opportunity to match the bid submitted by the non-local bidder and thereby be awarded the contract. This preference shall apply only when purchases are \$5,000.00 or more in value.

- b. A vendor shall be deemed a county construction vendor if such bidder:

- (i) Is an individual, partnership, association or corporation that is authorized to transact business within the state; and
- (ii) Has a physical business address located and operating within the limits of the county for a period of at least 12 months prior to the bid opening date or if a person who is at least a 25 percent owner of the bidder maintains a primary residence in the county; and
- (iii) Has paid all applicable county taxes and fees.

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LOCAL PREFERENCE CONTINUED

- c. If the bidder is using a residential address as a business address pursuant to the home occupation provisions of the Berkeley County Zoning Ordinance, that location has to be the company/bidder's only place of business. A physical business address does not include construction trailers or other facilities approved under a temporary use permit.
- d. The bidder or his qualifying subcontractors must perform at least 50 percent of the work. A qualifying contractor must meet the requirements of paragraph (2) above.
- e. The local vendor preference for construction projects only applies when the county's estimated project cost is less than \$750,000.00.
- f. *Exception* . If procurement is to be made pursuant to state or federal guidelines that prohibit or restrict local preferences, there shall be no local preference unless a more restricted variation is allowed under the guidelines.
- g. *Multiple qualifying vendors* . Subject to the restriction above, in the case of multiple vendors qualifying for the county vendor preference, standard procurement practice regarding the priority of selection as determined by the lowest responsive and responsible bidder shall control.

Sec. 50-64(i): Award. The contract shall be awarded with reasonable promptness by written notice

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SECTION 5
BID FORM

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IFB TITLE: **Mount Holly Commerce Park Improvements Phase I**

IFB NUMBER: **BCWS-19-19/20**

CLOSING DATE AND TIME: **May 26, 2020 @ 11:00 PM**

In compliance with this Invitation for Bid and subject to the terms conditions therein (including subsequently received written addenda if any) the undersigned offers and agrees, if selected by the County, to execute the entire work in the solicitation documents. The Total Base Bid Amount as indicated herein, is inclusive of all costs, including all labor, supervision, materials, supplies, equipment, taxes, insurance, permits and any other costs incidental or otherwise.

ITEM NO.	ITEM DESCRIPTIONS	UNIT	QTY	UNIT PRICE	TOTAL PRICE
1	Pump Station 094 Replacement (complete)	LS	1		
2	24" PVC Force Main, Fittings, and Appurt	LF	12,294		
3	Jack & Bore 42" Steel Casing (min t=0.563")	LF	505		
4	Force Main 2" Air Release Valve	EA	4		
5	Force Main 3" Air Release Valve	EA	5		
6	Force Main 3" Air Release Valve (low pressure)	EA	3		
7	Force Main 24" Plug Valve	EA	3		
8	Force Main Pavement/Gravel Driveways R & R	LS	1		
9	36" PVC Gravity Sewer	LF	207		
10	7' Diameter Manholes (8'-10' Depth)	EA	1		
11	7' Diameter Doghouse/Drop Manhole (12'-14' Depth)	EA	1		
12	7' Diameter Manholes (12'-14' Depth)	EA	1		
13	Sediment & Erosion Control	LS	1		
14	Contingency Cash Allowance*	LS	1	\$500,000	\$500,000
TOTAL OF BASE BID AMOUNT					\$

*Contingency Cash Allowances shall be used at Owners discretion for project overruns or changes in Scope of Work.

TOTAL BASE BID AMOUNT WRITTEN

Company Name

Name of Authorized Representative

Signature of Authorized Representative

Date

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PROPOSAL TRANSMITTAL AND AGREEMENT

The undersigned, having fully familiarized himself with the information contained within this solicitation, submit the attached proposal. I verify (to the best of my knowledge and belief) this proposal to be true and correct. All requirements of the Invitation for Bid are hereby incorporated into the proposal submitted and shall be incorporated into the contract.

The Offeror acknowledges the following Amendments have been received and incorporated into this proposal:

Amendment No. _____ Dated _____, 2020 Signature _____

Amendment No. _____ Dated _____, 2020 Signature _____

Amendment No. _____ Dated _____, 2020 Signature _____

Respectfully submitted by: _____
(FIRM NAME)

Signature: _____

Representative Name: _____

Title: _____

Address: _____

Date: _____

Telephone No: _____

Fax Number: _____

Email: _____

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COSTS: The costs as indicated herein, are inclusive of all costs, including labor, supervision, materials, supplies, transportation, bonding, taxes or any other costs, incidental or otherwise, for the specified construction work. Additionally, I the undersigned understand that due to budget constraints, the County reserves the right to adjust or amend the work requirements and/or negotiate with the lowest, most responsive, qualified, and responsible Bidder in an effort to reach a cost that is fair, reasonable and acceptable to both parties.

DATE FOR COMMENCEMENT AND COMPLETION: The Date of Commencement shall be established in the Notice to Proceed. The County shall not be held liable for any expenses incurred by the successful Bidder until the Notice to Proceed has been executed. A contract award requires that both the County and the Contractor sign the Contract. All work shall be completed as established in the Notice to Proceed.

DISCREPANCIES, CONTRACTOR PROJECT ELEMENTS: I the undersigned, acknowledge and understand that all Bidder "As Bid" unit measures for the various Project Elements will be reviewed by the County and, where any discrepancies are noted, the County reserves the right to advise the Bidder and make the necessary corrections and thereby adjust the Bidder's lump sum total Bid amount accordingly. All adjustments, if any, will be predicated on work measurements as represented on the construction drawings. I shall have the option to decline any reasonable unit measure adjustment that will reflect an increase in my base Bid. Therefore, it is understood that unless declined, any adjustments reflecting an increase in the element cost will, when adjusted, reflect an overall increase in the base Bid and will be considered in determining the most responsive Bid.

LISTING OF SUBCONTRACTORS: Any Bidder in response to this Invitation for Bids shall set forth in his Bid the names and locations of the places of business for each of the following subcontractors (if so specified) who may perform work or render services to the successful Bidder to or about the construction, or who will specifically fabricate or install a portion of the work.

If the Bidder determines to use his own employees to perform any portion of the work for which he would otherwise be required to list a subcontractor, and if the prime Contractor is qualified to perform such work under the terms of the Invitation for Bids, the prime Contractor shall indicate this in his Bid and not subcontract any of that work except with the approval of the County for good cause shown.

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LISTING OF SUBCONTRACTORS:

<u>Description of Work</u>	<u>Subcontractor's Name</u>	<u>Location</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
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<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

Failure to list specified subcontractors may render the Bidder's Bid nonresponsive. No Bidder whose Bid is accepted shall substitute any person as a subcontractor in place of the subcontractor listed in the original Bid, except as specified within the Contract Documents.

SUPERINTENDENT, GENERAL CONTRACTOR: If, as a result of this Bid a Contract is awarded, the Bidder's job superintendent shall be

Name

LIQUIDATED DAMAGES: The Successful Bidder shall agree that if the Work, or any part thereof, is not completed within the time agreed and indicated in the Contract Document that he shall be liable to the County in the amount as indicated herein for each and every calendar day the completion of the Work is delayed beyond the time provided in the Contract.

SEPARATE PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS:

For bids \$100,000.00 and above the undersigned shall have ten (10) days maximum from the date of the Notice of Award to deliver Separate Performance and Labor and Material Payment Bonds. Failure to deliver these documents, as required, shall entitle the County to consider the Contractor in default and declare the Bid nonresponsive.

AFFIRMATIVE ACTION: The successful Bidder will take affirmative action in complying with all Federal and State requirements concerning fair employment of the disabled, and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin, or physical disability.

BID HOLDING TIME AND ACCEPTANCE: The undersigned agrees that this Bid may not be revoked or withdrawn after the time set for the opening for Bids, but shall remain open for acceptance for a period of not less than sixty (60) days following the Bid opening date.

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RESPONSIBILITY: The undersigned understands that before awarding a Contract, the appropriate Council Committee may require additional information in order to ascertain the Bidder's capacity to meet the terms of the Contract. Failure to provide disclosure of this information to the County within five (5) days after having been duly notified and requested may be just cause for rejection of the Bid and Bidder will be considered noncompliant.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE: The undersigned certifies that the contractor listed below will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the Code of Laws of South Carolina, 1976, as amended, by complying with the requirements set forth in Title 44, Chapter 107.

ILLEGAL IMMIGRATION: By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1] (NOV. 2008) (An overview is available at www.procurement.sc.gov)

ETHICS CERTIFICATE: By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2] (May 2008)

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CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS. BY SUBMITTING AN OFFER, THE OFFEROR CERTIFIES COMPLIANCE. [02-2A032-1] (MAY 2008)

FEDERAL IDENTIFICATION NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

_____ (Classification)	_____ (Subclassification)	_____ (Limitations)
_____ (S.C. Contractor's License Number)		

AUTHORIZATION

(Print Name of Contractor/Company)

(Signature)

_____ (Printed Signature)	_____ (Title)
------------------------------	------------------

(Mailing Address)

_____ (City)	_____ (State)	_____ (Zip)
-----------------	------------------	----------------

_____ (Telephone Number)	_____ (Fax Number)
-----------------------------	-----------------------

(E-mail Address)

Invitation for Bid
Mount Holly Commerce Park Improvements Phase I
BCWS-19-19/20

BID FORM

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LOCAL VENDOR PREFERENCE AFFIDAVIT
(Applicable for Construction Procurements under \$750,000.00)

Personally, appeared before me _____, who being duly sworn, certifies that the vendor identified in this bid response meet all qualifications for the local preference as defined in Section VII, Subsection D, number 8 of the Berkeley County Procurement Ordinance entitled "Local Preference" as amended.

By this written claim, bidder request that the five percent (5%) Local resident vendor preference be exercised in consideration of contract award of this bid.

BIDDER CERTIFIED THAT HE MEETS ALL QUALIFICATIONS FOR THE (CHECK ONLY ONE OF THE FOLLOWING):

- ☐ 1. LOCAL RESIDENT VENDOR PREFERENCE (BERKELEY COUNTY)
PHYSICAL ADDRESS OF LOCAL PREFERENCE:

OR

- ☐ 2. NOT APPLICABLE

BIDDER SIGNATURE: _____

BIDDER NAME: _____

POSITION: _____

FIRM NAME: _____

ADDRESS: _____

TELEPHONE: _____

Subscribed and sworn to before me this _____ day of _____, 2020.

Notary Public

My Commission Expires _____

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BID FORM

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NONCOLLUSION AFFIDAVIT OF BIDDER

STATE OF _____)

COUNTY OF _____)

- _____, being first duly sworn, deposes and says that:
- (1) He is _____ (owner, partner, officer, representative or agent) of _____, the Bidder that has submitted the attached Bid:
 - (2) He is fully informed regarding the preparation and contents of the attached Bid and of all pertinent circumstances regarding such Bids:
 - (3) Such Bid is genuine and is not a collusive or sham Bid;
 - (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from quoting in connection with such Contract, or has in any manner directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Berkeley County Water and Sanitation, or any person interested in the proposed contract; and
 - (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

SIGNED: _____

TITLE: _____

Subscribed and sworn to before me this _____ day of _____, 2020

Notary Public

My Commission Expires _____

Invitation for Bid
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BID FORM

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DELINQUENT TAX AFFIDAVIT

Please note the Procurement Department shall verify that all taxes have been paid to the County by vendors with which they intend to do business. If you owe delinquent taxes your bid may be disqualified from consideration. If you wish to inquire as to your tax status, you may contact the Berkeley County Delinquent Tax Office at one of the following numbers:

Moncks Corner	(843) 719-4029
Charleston	(843) 723-3800 extension 4029
St. Stephen	(843) 567-3136 extension 4029

IS YOUR BUSINESS DELINQUENT IN PAYING ANY TAXES OWED TO BERKELEY COUNTY? _____ (YES OR NO)

BIDDER SIGNATURE: _____

BIDDER NAME: _____

POSITION: _____

FIRM NAME: _____

ADDRESS: _____

TELEPHONE: _____

Subscribed and sworn to before me this _____ day of _____, 2020

Notary Public

My Commission Expires _____

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BID FORM

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BIDDER'S REFERENCES

- A. Name and Address of Owner/Client: _____

Contact Name: _____
Phone No.: _____
- B. Name and Address of the Project: _____

- C. Name of the Architectural/Engineering Firm for the Project, if
Applicable: _____

Name of the Project Architect/Engineer, if
Applicable: _____
_____ Phone No.: _____
- D. Name of Job Superintendent: _____
- E. Contract Date: _____ Date of Completion: _____
- F. Project is on Schedule or has been completed on Time: Yes ____ No ____
If no, number of days late: _____ Explain: _____

- G. Contract dispute or failure to complete contract to Owner satisfaction: Yes ____ No ____
If Yes, Explain: _____

- H. Amount of Bid: _____ Final Project Cost: _____
Explain Difference, if any: _____

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BID FORM

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BIDDER'S REFERENCES

- A. Name and Address of Owner/Client: _____

Contact Name: _____
Phone No.: _____
- B. Name and Address of the Project: _____

- C. Name of the Architectural/Engineering Firm for the Project, if
Applicable: _____

Name of the Project Architect/Engineer, if
Applicable: _____
_____ Phone No.: _____
- D. Name of Job Superintendent: _____
- E. Contract Date: _____ Date of Completion: _____
- F. Project is on Schedule or has been completed on Time: Yes ____ No ____
If no, number of days late: _____ Explain: _____

- H. Contract dispute or failure to complete contract to Owner satisfaction: Yes ____ No ____
If Yes, Explain: _____

- H. Amount of Bid: _____ Final Project Cost: _____
Explain Difference, if any: _____

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BID FORM

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BIDDER'S REFERENCES

- A. Name and Address of Owner/Client: _____

Contact Name: _____
Phone No.: _____
- B. Name and Address of the Project: _____

- C. Name of the Architectural/Engineering Firm for the Project, if
Applicable: _____

Name of the Project Architect/Engineer, if
Applicable: _____
_____ Phone No.: _____
- D. Name of Job Superintendent: _____
- E. Contract Date: _____ Date of Completion: _____
- F. Project is on Schedule or has been completed on Time: Yes ____ No ____
If no, number of days late: _____ Explain: _____

- I. Contract dispute or failure to complete contract to Owner satisfaction: Yes ____ No ____
If Yes, Explain: _____

- H. Amount of Bid: _____ Final Project Cost: _____
Explain Difference, if any: _____

Invitation for Bid
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SECTION 6
SPECIAL CONDITIONS

1. GENERAL GUARANTEE: The successful Bidder shall guarantee all workmanship and materials, to be free of defects of any type for a period of two (2) years after date of substantial completion. Upon written notice from Berkeley County, the successful Bidder shall, within five (5) calendar days, correct all defects without additional cost to the County.
2. BUSINESS LICENSE/PERMITS: The successful Bidder and all subcontractors, if any, shall obtain permits, as may be necessary, and required by City, County and State agencies.
3. ENGINEERING SERVICES: The successful Bidder shall provide all engineering and surveying control services needed to complete this project.
4. UNDERGROUND UTILITIES: It is required that the contractor notify Palmetto Utility Protection Services at 1-888-721-7877, three (3) working days in advance of commencing work. Also, if in areas where work that is not completed in ten (10) working days, the Contractor is required to contact Palmetto Underground Utilities and give them the original request number.
5. SAFETY/TRAFFIC REQUIREMENTS: The Contractor is required to follow the traffic controls for street and highway construction and maintenance operations in accordance with Part VI (6) of the Federal Highway Administration Manual on Uniform Traffic Control Devices – Millennium Edition and latest OSHA construction regulations. The Contractor is responsible for furnishing and installing all detour signs and pavement markings as required. The Contractor will be required to maintain or replace all Traffic Control Devices, (Signs, pavement markings, etc.) for the duration of the project as directed by the Engineer in order to maintain the detour in accordance with the South Carolina Manual of Uniform Traffic Control Devices (SCMUTCD). All traffic control devices shall be kept legible and plumb day and night during their use.
The Contractor shall be required to provide individuals who are properly trained in traffic control practices. The job duties of these individuals shall be restricted to providing quality assurance of the traffic control installation. The Contractor shall be required to have a person in charge of the traffic control on the job site at all times when construction activities are in progress.
6. METERED WATER, FIRE HYDRANTS: If water is taken from a fire hydrant for any reason, the Contractor shall use a hydrant meter and backflow preventor as is required by the water provider. The successful Bidder would not be charged for construction water use within Berkeley County Water & Sanitation service area.
7. EXISTING IMPROVEMENTS: The successful Bidder shall be responsible for all damages to existing improvements resulting from successful Bidder's operations. Including but not limited to, protecting the downstream lake from construction debris and site restoration to include sod where disturbed.

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SPECIAL CONDITIONS CONTINUED

8. PUBLIC RELEASE OF INFORMATION: Contractor shall not advertise, issue a press release or otherwise publish information concerning this solicitation or contract without prior written consent of the County. The County shall not unreasonably withhold permission. Contractor agrees not to refer to award of this solicitation/contract in commercial advertising in such manner as to state or imply that the products or services provided are endorsed or preferred by Berkeley County.
9. APPLICABLE REGULATIONS/POLICIES: The Revised Code of the Berkeley County Ordinances, Rules and Regulations and Policies shall apply. It shall be the responsibility of the Offeror to be familiar and comply with said regulations/policies.
10. PROVISIONS REQUIRED BY LAW: Each and every provision of law and any clause required by law to be in the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
11. WAIVER: The County reserves the right to waive any provisions of this solicitation.
12. S.C. LAW CLAUSE: Upon award of a contract or Purchase Order under this bid, the person, partnership, association, or corporation to whom the award is made must comply with the laws of South Carolina which require such person or entity to be authorized and/or licensed to do business in this state. Notwithstanding the fact that applicable statutes may exempt or exclude the successful offeror from requirements that it be authorized and/or licensed to do business in this state, by submission of this signed bid, the offeror agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, to all matters and disputes arising or to arise under the contract and performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.
13. ROYALTIES, PATENTS, NOTICES AND FEES: Offeror shall give all notices and pay all royalties and fees. S/he shall defend all suits or claims for infringement of any patent rights and shall hold the County harmless from loss on account thereof.
14. CONFIDENTIALITY: Contractor will maintain confidential any documents or information provided by the County and will not release, distribute or publish same to any third party without prior permission from the County, unless compelled by law or order of a court or regulatory body of competent jurisdiction. Such release will occur only after prior notice to the County.
15. OWNERSHIP OF MATERIAL: Ownership of all data, material, and documentation originated and prepared for the County pursuant to this contract shall belong exclusively to the County.

Invitation for Bid
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SPECIAL CONDITIONS CONTINUED

16. APPLICABLE LAW AND VENUE: The construction, interpretation and performance of any Final Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina. The County and Contractor further agree that the Final Agreement shall be deemed to be made and performed in Berkeley County, South Carolina. For the purposes of venue, all suits or causes of action arising out of the Final Agreement shall be litigated only in the Circuit Court of Berkeley County, South Carolina (the Ninth Judicial Circuit).
17. CLIENT LITIGATION: Contractor agrees to produce documents, witnesses and/or general assistance to any litigation, arbitration or mediation involving the County, if the County requests such documents, witnesses and/or general assistance. The County shall reimburse Contractor for all direct expenses incurred and time according to Contractor's rate schedule as of the date of the execution of the Final Agreement.
18. SEVERABILITY: Should any section, paragraph, clause, phrase, or provision of any Final Agreement be determined invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of any Final Agreement as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.
19. AUDIT: Contractor's records which pertain to this Contract must be open for inspection and/or audit by the County upon request for a period of five years after each contract year. For audit purposes, the County must verify that the material cost billed as a result of the contract are correct. Contractor must provide the County, upon its request, documentation of material purchase costs (e.g. copy of invoice from its supplier), and rental equipment is being invoiced properly.
20. PUBLIC RESPONSIBILITY: The County has a duty to conform to applicable codes, standards, regulations and ordinances with regard to public health and safety. Contractor will at all times alert the County to any matter of which Contractor becomes aware and believes requires the County to issue a notice or report to certain public officials, or to otherwise conform with applicable codes, standards, regulations or ordinances. If the County decides to disregard Contractor's recommendations in these respects, Contractor shall employ its best judgment in deciding whether or not it should notify public officials.
21. BRAND NAMES: Specifications contained herein may refer to brand names. Brand name(s) and number(s) are used ONLY to set forth and convey to prospective bidders the general style, type, character, and quality of equipment desired, unless otherwise indicated with the phrase "**No Exceptions**".
22. EQUAL EMPLOYMENT: The Contractor will comply with all Federal and State requirements concerning fair employment. During the performance of this Contract, the Consultant agrees to provide equal employment opportunities. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, physical handicap, or marital status.

Invitation for Bid
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SPECIAL CONDITIONS CONTINUED

23. INDEMNIFICATION: The contractor agrees to indemnify and save harmless the County of Berkeley and all County officers, agents and employees from any and all claims, suits, actions, legal proceedings, damages, costs, expenses & attorney fees of every name and description, arising out of or resulting from the use of any materials furnished by the contractor, or any work done in the performance of the contract arising out of a willful or negligent act or omission of the provider, its officers, agents and employees; provided that such liability is not attributable to a willful or negligent act or omission on the part of the County, its officers, agents and employees.
24. ILLEGAL IMMIGRATION REFORM ACT COMPLIANCE: By submitting an offer, Offeror certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina code of Laws (originally enacted as Section 3 of The South Carolina Illegal Immigration act, 2008 S.C. Act No. 280) and agrees to provide upon request any documentation required to establish either: (a) the applicability of Title 8, Chapter 14 to Offeror and any subcontractor or sub-subcontractors; or (b) the compliance with Title 8, Chapter 14 by Offeror and any subcontractors or sub-subcontractors. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both". Offeror agrees to include in any contracts with its sub-contractors language requiring the subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in any contracts with the sub-subcontractors language requiring the sub-subcontract to comply with the applicable requirements of Title 8, Chapter 14. In the event any contractor, subcontractor and/or sub-subcontractor is found not to be in compliance with the SC Immigration Reform Act [hereinafter "The Act"], the Contractor agrees to fully indemnify the County for any loss suffered by the County as a result of such contractor, subcontractor or sub-subcontractor's failure to comply with the Act.
25. FEDERAL, STATE AND LOCAL LAWS: The contractor assumes full responsibility and liability for compliance with any and all local, state and federal laws and regulations applicable to Contractor and his employees including, but not limited to, compliance with the EEO guidelines, the Occupational Safety and Health Act of 1970, and minimum wage guidelines. Contractor's professional services shall incorporate those federal, state and local laws, regulations, codes and standards that are applicable at the time Contractor rendered its services. Contractor shall not be responsible for any claim or liability for injury or loss allegedly arising from Contractor's failure to abide by federal, state or local laws, regulations, codes and standards that were not in effect or publicly announced at the time Contractor rendered its services

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SECTION 7
TERMS & CONDITIONS
I - Contract Documents

1. **THE CONTRACT:** The Contract Documents form the Contract for Complete Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreement, either written or oral. The Contract may be amended or modified only by a written Modification as agreeable by both parties. Nothing contained in the Contract Documents shall create any Contractual relationship between the County and any subcontractor or sub-subcontractor.
2. **CONTRACT DOCUMENTS:** The Contract documents consist of the County-Contractor Contract, the Conditions of the Contract (General, Supplementary and other Conditions), the drawings, specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract. The Contract Documents include Bid Documents such as the Advertisement and Invitation for Bids, the Instructions to Bidders, Contractor's Bid and all Addenda relating to any of these, or any other documents, specifically enumerated in the County-Contractor Contract.
3. **ENTIRE CONTRACT:**

The Entire Contract consists of the following:

- a) Invitation to Bid
- b) Instructions to Bidders
- c) Special Conditions
- d) General Terms and Conditions
- e) Bid Documents
- f) References
- g) Contract
- h) Notice of Award/Acceptance
- i) Notice to Proceed
- j) Change Order/Field Order (as applicable)
- k) Construction Schedule
- l) Forms (as applicable)
- m) Technical Specifications (as applicable)
- n) Construction Drawings (as applicable)
- o) Addenda (if any)
- p) All Bonds, Sureties and Insurance Certificates

Invitation for Bid
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TERMS & CONDITIONS
I - Contract Documents Continued

4. CONTRACT SUM: The Contract Sum as stated in the County-Contractor Contract, including authorized change orders and modifications thereto, is the total amount payable by the County to the Successful Bidder for the performance of the Work under the Contract Documents.
5. THE WORK: The Work comprises the complete construction required by the Contract Documents and includes all labor necessary to produce such construction, and all material and equipment incorporated or to be incorporated in such construction.

All Work indicated in the Contract Drawings and not mentioned in the specifications, or vice versa, and all work, materials and equipment usual and necessary to make the Work complete in all its parts, whether or not they are indicated in the Contract Drawings or mentioned in the specifications, shall be furnished and executed the same as if they were called for by both the Contract Drawings and the specifications. The performance of such Work shall not be considered as justification for any claim or extra compensation.

6. THE PROJECT: The project is the total construction of the Project described in the County-Contractor Contract, of which the Work performed under the Contract Documents may be the whole or only a part.
7. EXECUTION, COORELATION, INTENT: The Contract documents shall be signed by the County and the Successful Bidder. By executing the Contract, the Successful Bidder represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results.

Whenever the Successful Bidder wants detailed drawings or directions to settle any doubts in his mind as to requirement or requirements of Contract Drawings and Specifications, he shall apply to the County and the Construction Manager in ample time, so that the same may be prepared or given without causing any delay in the execution of Work.

The organization of the specifications into division, section and articles, and the arrangement of Drawings shall not control the Successful Bidder in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade.

8. NOTICE OF AWARD: The Successful Bidder, upon written notification, shall within five (5) calendar days execute and return the acknowledged Notice of Award to the County. Failure to comply within this time period may consider the Successful Bidder in default and subject the Bid Deposit to forfeiture.

Invitation for Bid
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TERMS & CONDITIONS
I - Contract Documents Continued

9. NOTICE TO PROCEED: The County, upon receipt of the Successful Bidder's Separate Performance and Labor and Material Payment Bonds, will issue a Notice to Proceed, providing that acceptable Certificates of Insurance have been received or included. Any cost incurred prior to the Notice to Proceed shall be the responsibility of the Successful Bidder.
10. COMMENCEMENT: The Successful Bidder shall commence actual physical Work on the project within five (5) calendar days from the Date of Commencement, as established in the Notice to Proceed. Failure by the Contractor to commence actual physical Work on the project within the allocated time will entitle the County to consider the Successful Bidder as irresponsible and in default.
11. TIME OF COMPLETION: Attention is called to the fact that the Work set forth in the Bid is urgently needed by the County and that time is of the essence. All completion dates are set forth in the Notice to Proceed.
11. OWNERSHIP AND USE OF DOCUMENTS: All drawings, specifications and copies thereof furnished by the County are and shall remain his property. They are to be used only with respect to this Project and are not to be used on any other project.
12. CONFLICT-CONTRACT DOCUMENTS: The following principles shall govern the settlement of disputes that may arise over discrepancies in the Contract documents:
 - A) As between figures given on drawings and the scaled measurements, the figures shall govern. No measurements should be taken by scale as working dimensions except on large-scale drawings not dimensional in detail;
 - B) As between large-scale drawings and small-scale drawings, the larger scale shall govern;
 - C) As between drawings and specifications, requirements of the drawings shall govern;
 - D) As between the form of Contract and the specifications, requirements of the form of Contract shall govern. Should a conflict occur in or between the drawings or specifications, between divisions or sections of the specifications or between details on the drawings, the **SUCCESSFUL BIDDER SHALL BE DEEMED TO HAVE ESTIMATED THE MORE EXPENSIVE PRODUCT OR METHOD INDICATED.**
13. 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 or equity. No action or failure to act by the County, 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.

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TERMS & CONDITIONS
I - Contract Documents Continued

15. CONTROLLING LAW: Any Contract arising from this Bid, shall be governed by the laws of the State of South Carolina, and for the purposes of venue, all suits or causes of action arising out of the Final Agreement shall be litigated only in the Circuit Court of Berkeley County, South Carolina (the Ninth Judicial Circuit). The prevailing party shall be entitled to reasonable attorney's fees and all costs of said litigation.
16. SUCCESSOR: The County and the Successful Bidder each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, Contracts and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other.

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TERMS & CONDITIONS

II – County

1. DEFINITION: The County is the person or entity identified as such in the County-Contractor Contract and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term County means the County or his authorized representative.
2. ADMINISTRATION OF THE CONTRACT: The County will provide administration of the Contract as hereinafter described.
3. COUNTY FINANCIAL RESPONSIBILITY: The County shall, at the request of the Successful Bidder, at the time of execution of the County-Contractor Contract, furnish to the Successful Bidder reasonable evidence that he has made financial arrangements to fulfill his obligations under the Contract. Unless such reasonable evidence is furnished, the Successful Bidder is not required to execute the County -Contractor Contract or to commence the Work.
4. COUNTY'S RIGHT TO STOP WORK: If the Successful Bidder fails to correct defective Work or persistently fails to carry out the Work in accordance with the Contract Documents, the County, by a written order signed personally or by an agent specifically so empowered by the County in writing, may order the Successful Bidder to stop the Work, or any portion thereof, until the cause for stoppage has been eliminated, corrected, or the County orders the Work be resumed. In such case, the Successful Bidder shall immediately obey such order.
5. COUNTY'S RIGHT TO CARRY OUT THE WORK: If the Successful Bidder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within five (5) calendar days after receipt of written notice from the County to commence and continue correction of such default or neglect with diligence and promptness, the County may, by written notice to the Successful Bidder after five (5) calendar days, and without prejudice to any other remedy or right he may have, make good such deficiencies. In such case, an appropriate Change Order shall be issued, deducting from the payments then or thereafter due the Successful Bidder, the cost of correcting such deficiencies, including compensation for additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Successful Bidder are not sufficient to cover such amount, the Successful Bidder shall pay the difference to the County.

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TERMS & CONDITIONS
III – Construction Administrator

1. DEFINITION: The Construction Administrator is the person delegated by the County to represent the County in all construction related matters of the project between the County and the Successful Bidder.
2. SERVICES PROVIDED BY THE CONSTRUCTION ADMINISTRATOR: The Construction Administrator shall decide any and all questions that arise as to the interpretation of Contract Drawings and Specifications, subject to review by the County.

The Construction Administrator will have authority to act on behalf of the County only to the extent provided in the Contract Documents, unless otherwise modified by written instrument.

The Construction Administrator will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Construction Administrator will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of his on-site observations as the Construction Administrator, he will endeavor to guard the County against defects and deficiencies in the Work of the Successful Bidder.

The Construction Administrator will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Construction Administrator will not be responsible for or have control or charge over the acts or omissions of the Successful Bidder, Subcontractors, or any of their agents, or employees, or any other persons performing any of the Work.

The Construction Administrator and County shall at all times have access to the Work wherever it is in preparation and progress. The Successful Bidder shall provide facilities for such access so the Construction Administrator may perform his functions under the Contract Documents.

Based on the Construction Administrator's observations and an evaluation of the Successful Bidder's Applications for Payment, the Construction Administrator will determine the amounts he believes to be owing to the Successful Bidder and will approve for payment such amounts, as provided in the Contract Documents.

TERMS & CONDITIONS

III – Construction Administrator Continued

2. SERVICES PROVIDED BY THE CONSTRUCTION ADMINISTRATOR CONTINUED:

The Construction Administrator shall have the right to correct any errors and omissions in the Contract Drawings and Specifications when such correction is necessary for the proper fulfillment of their intention. The Successful Bidder shall perform in accordance with any such corrections. The Construction Administrator will render interpretations necessary for the proper execution or progress of the Work, with reasonable promptness and in accordance with any time limit agreed upon provided that Successful Bidder shall make a timely written request for such.

The Construction Administrator will reject work that does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will require special inspection or testing of the work. Whether or not such Work be then fabricated, installed or completed.

The Construction Administrator will review and approve or take other appropriate action upon Successful Bidder's submittals such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Construction Administrator's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

The Construction Administrator will conduct inspections to determine the dates of Substantial Completion and Final Completion; will receive and review written warranties and related documents required by the Contract and assembled by the Successful Bidder, and will recommend final payment upon compliance with the requirements of the Contract Documents.

In case of the termination of the employment of the Construction Administrator, the County may appoint a Construction Administrator against whom the Contractor makes no reasonable objection whose status under the Contract Documents shall be that of the former Construction Administrator.

Refer to Section XIII - Project Meeting for other responsibilities.

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TERMS & CONDITIONS

IV – Contractor

1. DEFINITION: The Successful Bidder is the person or entity identified as such in the County-Contractor Contract and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Successful Bidder means the Successful Bidder or his authorized representative.
2. SITE CONDITIONS: The Successful Bidder accepts the conditions at the Work-Site as they eventually may be found to exist, and warrants and represents that the Contract can and will be performed under such conditions, and that all materials, equipment, labor and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at the Successful Bidder's own cost and expense, anything in his Contract to the contrary notwithstanding.
3. REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY SUCCESSFUL BIDDER: The Successful Bidder shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If the Successful Bidder performs any of the Work, knowing it involves a recognized error, inconsistency or omission in the Contract Documents, without such notice to the Construction Administrator, the Successful Bidder shall bear responsibility for such performance and shall bear the cost of correction.

The Successful Bidder shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Successful Bidder with the Contract Documents before commencing activities.

The Successful Bidder shall perform the Work in accordance with the Contract Documents and submittals approved by the County.

4. CONDITIONS AFFECTING THE WORK: The Successful Bidder shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions that can affect the work or the cost thereof. Any failure by the Successful Bidder to do so will not relieve him from responsibility for successfully performing the work, without additional expense to the County. The County assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this Contract, unless such understandings or representations by the County are expressly stated in the Contract.

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TERMS & CONDITIONS
IV – Contractor Continued

4. CONDITIONS AFFECTING THE WORK CONTINUED: The Successful Bidder shall furnish and pay the costs, including sales tax and all other applicable taxes and fees, of all the necessary materials and shall furnish and pay for all the superintendents, labor, tools, equipment and transportation and perform all work required in strict accordance with this Contract, and any amendments thereto and such supplemental plans and specifications that may hereafter be approved.

In any case, where there is a matter of discrepancy in opinion concerning any portion of the specifications, work methods, work to be accomplished, or any other matter concerning this Contract, the final decision shall be that of the County.

5. SUPERVISION AND CONSTRUCTION WORK PROCEDURES: The Successful Bidder shall supervise and direct the work, using his best skills and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Contract.

The Successful Bidder shall be responsible to the County for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the Work under a Contract with the Successful Bidder.

The Successful Bidder shall employ a competent superintendent and necessary assistants who shall be in attendance at the Work-Site during the progress of the Work. The superintendent shall represent the Successful Bidder and all communications given to the superintendent shall be as binding as if given to the Successful Bidder. Important communications shall be so confirmed on written request in each case.

6. LABOR AND MATERIALS: Unless otherwise provided in the Contract documents, the Successful Bidder shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the work.

The Successful Bidder shall at all times enforce strict discipline and good order among his employees and shall not employ, on the Work Site, any unfit person or anyone not skilled in the task assigned to him.

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IV – Contractor Continued

7. DRUG-FREE WORKPLACE ACT REQUIREMENT: The Successful Bidder shall be responsible for initiating, maintaining and supervising all drug-free programs in connection with the performance of the Contract. The drug-free programs shall conform to Title 44, Chapter 107, Section 44-107-10 through 44-107-90 of the Code of Laws of South Carolina, 1976, as amended.
8. GUARANTEE; WARRANTIES:
- A) The Successful Bidder warrants to the County that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract documents. All Work not conforming to these requirements, including substitutions not properly approved or authorized may be considered defective. If required by the County, the Successful Bidder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- B) Successful Bidder shall guarantee all workmanship and materials to be free of defects of any type for a period of two (2) years, or the time specified in the Manufacturer's Product Warranty, or the time reasonably expected by the discipline, or provided by the Statute of Limitations, whichever time is greater after the date of final payment.
- C) Any and all manufacturers' warranties on any equipment or materials will be passed on to the County and copies of said warranties will be furnished by the Successful Bidder to the County upon completion and final acceptance of the project.
- D) Upon written notice from the County, the Successful Bidder shall, within five (5) calendar days, correct all reported defects without any additional cost to the County.
9. TAXES: The Successful Bidder shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Successful Bidder which are legally enacted at the time Bids are received, whether or not yet effective.
- A) South Carolina: In accordance with Section 12-8-550 of the laws of the State of South Carolina, as amended, the County shall collect a two (2%) percent withholding tax from any out-of-state business, that enters into an agreement with the County in the amount of \$10,000 or more, that has not registered with the Department of Revenue or the Secretary of State for South Carolina. Proof of registration must be provided to the County on the State of South Carolina Department of Revenue's Form I-312. The County sales tax rate is eight (8%) percent.
- B) Federal:
- The County is exempt from Federal Taxes.

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IV – Contractor Continued

10. PERMITS, FEES, AND NOTICES: Unless otherwise provided in the Contract Documents, the successful Bidder shall secure and pay for the building permits and for all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract. The County will waive building permit and impact fees for this project. No waivers can be made regarding Business License or the updating of the successful Bidder's current Business License requirements. The Successful Bidder shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.
11. ALLOWANCES: The Successful Bidder shall include in the Contract Sum all allowances stated in the Contract Documents. Such persons shall supply for such amounts and items covered by these allowances as the County may direct, but the Contractor will not be required to employ persons against whom he makes a reasonable objection.
12. PROGRESS SCHEDULE: The Successful Bidder, immediately after being awarded the Contract, shall review the Progress Schedule as submitted with his Bid. Any changes or rearrangements found necessary for improvements, or otherwise, shall be reviewed with and by the County's Construction Administrator at the Pre-Construction Conference. The Progress Schedule shall be related to the entire Project and shall provide for expeditious and practical execution of the Work.
13. MONTHLY PROGRESS REPORT (EJCDC Form C-620): The Successful Bidder shall submit monthly, along with his Application for Payment, his actual Progress Schedule in the form of a bar graph relative to the Project schedule as approved by the County.
14. DOCUTMENTS AND SAMPLES HELD AT THE SITE: The Successful Bidder shall maintain at the Work-Site for the County one (1) record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available and shall be delivered to the County upon completion of the Work.
15. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES: Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Successful Bidder or any subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Successful Bidder to illustrate a material, product or system for some portion of the Work.

TERMS & CONDITIONS
IV – Contractor Continued

15. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES CONTINUED: Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

The Successful Bidder shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the Work of the County or any separate Contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

The Successful Bidder shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the County's approval of Shop Drawings, Product Data or Samples unless the Successful Bidder has specifically informed the County in writing of such deviation at the time of submission, and the County's Construction Administrator has given written approval to the specific deviation. The Successful Bidder shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the County's approval thereof.

The Successful Bidder shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the County on previous submittals.

No portion of the Work requiring submission of a Shop Drawing, Product Data or Samples shall be commenced until the submittal has been approved by the County. All such portions of the Work shall be in accordance with approved submittals.

16. USE AND CLEANING OF SITE: The Successful Bidder shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the Work-Site with any materials or equipment. The Successful Bidder shall keep the Work-Site reasonably clean during performance of the Work. Upon final completion of the Work, the Successful Bidder shall clean the Work-Site and the Project and remove all waste, together with all of the Successful Bidder's property.
17. ACCESS TO WORK: The County and the Construction Administrator shall have access to the Work at all times from commencement of the Work through final completion. The Successful Bidder shall take whatever steps necessary to provide access when requested.

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IV – Contractor Continued

18. CUTTING AND PATCHING OF WORK: The Successful Bidder shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

The Successful Bidder shall not damage or endanger any portion of the Work or the Work of the County or any separate contractors by cutting, patching or otherwise altering any Work, or by excavation.

The Successful Bidder shall not cut or otherwise alter the Work of the County or any separate contractor, except with the written consent of the County, and of such separate Contractor. The Successful Bidder shall not, unreasonably withhold from the County, or any separate contractor his consent to cutting or otherwise altering the Work.

19. COMMUNICATIONS: The Successful Bidder shall forward all communications to the County through the County's Project Manager and the County's Procurement Department.

20. INDEMNIFICATION: To the fullest extent permitted by law, the Successful Bidder shall indemnify and hold harmless the County and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Successful Bidder, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity that would otherwise exist.

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TERMS & CONDITIONS
V – Protection of Person & Property

1. GENERAL: The Successful Bidder shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work, including that of any sub-contractors. The Successful Bidder's Safety Program shall incorporate the practices, procedures, and requirements described in this Section, as well as the requirements of any Federal, State, or Local laws, ordinances, applicable construction codes and regulations. Machinery equipment and other potential hazards shall be guarded in accordance with the safety provisions of the Manual of Accident Prevention in Construction, published by the Associated General Successful Bidders of America, to the extent that such provisions are not in contradiction of applicable laws, in which case the more stringent shall apply.
2. SAFETY OF PERSONS AND PROPERTY: The Successful Bidder shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:
 - A) All employees on the Work Site and all other persons who may be affected thereby;
 - B) All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the Successful Bidder or any of his subcontractors or sub-subcontractors; and
 - C) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, watercraft, and utilities not designated for removal, relocation, or replacement in the course of construction.

The Successful Bidder shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

The successful Bidder shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying County and users of adjacent utilities.

When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Successful Bidder shall exercise the utmost care, shall notify the County in writing, shall carry on such activities under the supervision of properly qualified personnel, and shall comply with all applicable laws, rules and regulations and codes pertaining thereto.

TERMS & CONDITIONS

V – Protection of Person & Property Continued

2. **SAFETY OF PERSONS AND PROPERTY CONTINUED:** The Successful Bidder shall promptly remedy all damage or loss to any properties caused in whole or in part by the Successful Bidder, any subcontractor, and sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Successful Bidder is responsible, except damage or loss attributable to the acts or omissions of the County's Construction Administrator, and not attributable to the fault or negligence of the Successful Bidder. The Successful Bidder shall designate a responsible member of his organization at the Work-Site whose duties shall be safety compliance and prevention of accidents. This person shall be the Successful Bidder's superintendent unless otherwise designated by the Successful Bidder, in writing, to the County and the Construction Administrator.

The Successful Bidder shall designate a responsible member of his organization at the Work-Site whose duty shall be safety compliance and prevention of accidents. This person shall be the Successful Bidder's superintendent unless otherwise designated by the Successful Bidder in writing to the County and the Construction Administrator.

The Successful Bidder shall not load or permit any part of the Work to be loaded so as to endanger its safety.

The Successful Bidder shall provide, at the several locations of active Work, such equipment and medical facilities as are necessary for first-aid treatment of anyone who may be injured on the Work. He shall have standing arrangements for the removal and hospital treatment of any person who shall be injured while engaged in the performance of the Work.

The Successful Bidder shall report promptly, in writing, to the Construction Administrator all accidents occurring in the performance of the Work whether on, adjacent to, or remote from the Work-Site that caused death, personal injuries, or property damage, and shall give full details and statements of witnesses.

The Successful Bidder shall furnish, as required by any applicable laws, rules, regulations and codes, safe shoring, enclosed confinement safeguard requirements, scaffolding, and protection against accidents. Failure on the part of the Successful Bidder to carry out the above regulations after notification by the County shall be just cause for the County to afford all necessary protection and charge the cost of the same to the Successful Bidder.

Should hurricane or other emergency warnings be issued during the construction period, the Successful Bidder shall take every precaution to minimize danger to persons and damage to the Work and property. He shall take similar and appropriate action in the event of warnings of other such natural occurrences, storms, earthquakes, etc.

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TERMS & CONDITIONS

V – Protection of Person & Property Continued

2. SAFETY OF PERSONS AND PROPERTY CONTINUED: During the construction period, the Successful Bidder shall provide and maintain at all times in a neat and sanitary condition, at his expense, such toilet accommodations, for the use of his employees as are necessary to comply with the requirements of any Federal, State, or Local laws, ordinances, or regulations. All such accommodations and connections shall be removed upon completion of the Contract and the premises shall be left clean.

Care shall be taken to keep all parts of the Work in sanitary condition and free from refuse and decaying or other objectionable, unsafe, or unhealthy matter.

Failure to perform and meet the requirements of this Section or any apparent danger to persons or property shall be grounds for the County or the County's Construction Administrator to suspend the Work until the conditions creating the hazard has been removed.

3. EMERGENCIES: In any emergency affecting the safety of persons or property at the Work Site and vicinity, the Successful Bidder shall act, at his discretion, to prevent threatened damage, injury, or loss and notify the County immediately.
4. NEIGHBORHOOD SAFETY: The successful Bidder shall be responsible and exercise necessary safety implementation at all times within the neighborhoods for the duration of each project. This includes, but is not limited to, safety barriers, flagmen, etc., necessary during working and non-working hours or days. The successful Bidder is required to follow the traffic control specifications for street and highway construction and maintenance operations as set forth in Division 600, Traffic Control, of the South Carolina Department of Transportation (SCDOT) Standard Specifications for Highway Construction, Edition of 2000, Federal Highway Administration (FHWA) Manual of Uniform Traffic Control Devices, latest Edition, and latest Occupational Safety and Health Administration (OSHA) construction regulations.

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VI – Subcontractors

1. DEFINITION: A subcontractor is a person or entity that has a direct Contract with the Successful Bidder to perform any of the Work at the Work-Site. The term subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a subcontractor or his authorized representative.

2. AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK: Unless otherwise required by the Contract Documents or the Bidding Documents, the Successful Bidder, as soon as practical after the award of the Contract, shall furnish to the County, in writing, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The County will promptly reply to the Successful Bidder, in writing, stating whether or not the County, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the County to reply promptly shall constitute notice of no reasonable objection.
The Successful Bidder shall not Contract with any such proposed person or entity to whom the County has made reasonable objection. The Successful Bidder shall not be required to Contract with anyone to whom he has a reasonable objection. If the County has reasonable objection to any such proposed person or entity, the Successful Bidder shall submit a substitute to whom the County has no reasonable objection.

3. SUBCONTRACTUAL RELATIONS: By an appropriate Contract, written where legally required for validity, the Successful Bidder shall require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to the Successful Bidder by the terms of the Contract Documents, and to assume toward the Successful Bidder all the obligations and responsibilities which the Successful Bidder, by these Documents, assumes toward the County. Where appropriate, the Successful Bidder shall require each subcontractor to enter into similar Contracts with his Sub-subcontractors. The Successful Bidder shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound. Each subcontractor shall similarly make copies of such Documents available to his sub-subcontractors.

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TERMS & CONDITIONS

VII – Work By The County or Separate Contractor

1. COUNTY’S RIGHT: The County reserves the right to perform work related to the Project with his own forces, and to award separate Contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Successful Bidder claims that delay or additional cost is involved because of such action by the County, he shall make such claim as provided elsewhere in the Contract Documents. The County will provide for the coordination of the work of his own forces and of each separate Contractor with the Work of the Successful Bidder.
2. MUTUAL RESPONSIBILITY: The Successful Bidder shall afford the County and separate Contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

If any part of the Successful Bidder's Work depends, for proper execution or results, upon the work of the County or any separate contractor, the Successful Bidder shall, prior to proceeding with the Work, promptly report to the County any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Successful Bidder to so report shall constitute an acceptance of the County's or separate contractors' work as fit and proper to receive his Work, except as to defects that may subsequently become apparent in such work by others.

Any costs caused by defective or ill-timed work shall be borne by the party responsible therefore.

Should the Successful Bidder wrongfully cause damage to the Work or property of the County or any separate contractor, the Successful Bidder shall, upon due notice promptly attempt to settle with such other contractor by Contract, or otherwise to resolve the dispute. If such separate contractor sues or initiates any action or proceeding against the County on account of any damage alleged to have been caused by the Successful Bidder, the County shall notify the Successful Bidder who shall defend such action or proceedings at the County's expense, and if any judgment or award against the County arises therefrom, the Successful Bidder shall pay or satisfy it and shall reimburse the County for all attorneys' fees and court or mediation/arbitration costs that the County may incur as a result of any action taken.

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TERMS & CONDITIONS
VIII – Bond & Insurance

1. **BONDS**: Required; amount. When a construction contract is awarded in excess of \$100,000.00, the following bond or security shall be delivered to the county and shall become binding on the parties upon the execution of the contract:

Performance Bond (EJCDC Form C-610): A performance bond satisfactory to the county, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the county, in an amount equal to 100 percent of the price specified in the contract; and

Payment Bond (EJCDC Form C-615): A payment bond satisfactory to the county, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the county, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in amount equal to 100 percent of the price specified in the contract.

2. **INSURANCE REQUIREMENTS**: The successful bidder shall procure, maintain, and provide proof of, insurance coverage for injuries to persons and/or property damage as may arise from or in conjunction with, the work performed on behalf of the County by the bidder, his agents, representatives, employees or subcontractors. Proof of coverage as contained herein shall be submitted ten (10) days prior to the commencement of work and such coverage shall be maintained by the bidder for the duration of the contract period; for occurrence policies.

- 2.1 **General Liability**

Coverage shall be as broad as: Comprehensive General Liability endorsed to include Broad Form, Commercial General Liability form including Products/Completed Operations.

Minimum Limits General Liability:

\$5,000,000 General Aggregate Limit
\$2,000,000 Products & Completed Operations
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence Limit
\$50,000 Fire Damage Limit
\$5,000 Medical Expense Limit

- 2.2 **Automobile Liability**

Coverage sufficient to cover all vehicles owned, used, or hired by the bidder, his agents, representatives, employees or subcontractors.

Minimum Limits Automobile Liability:

\$1,000,000 Combined Single Limit
\$1,000,000 Each Occurrence Limit
\$5,000 Medical Expense Limit

TERMS & CONDITIONS
VIII – Bond & Insurance Continued

2. INSURANCE REQUIREMENTS CONTINUED:

2.3 Workers' Compensation

Limits as required by the Workers' Compensation Act of SC. Employers Liability, \$1,000,000.

2.4 Professional Liability

Minimum limits are \$1,000,000 per occurrence.

2.5 Coverage Provisions

All deductibles or self-insured retention shall appear on the certificate(s).

The County of Berkeley, its' officers/ officials, employees, agents and volunteers shall be added as "additional insured" as their interests may appear. This provision does not apply to Professional Liability or Workers' Compensation/Employers' Liability.

The Offeror's insurance shall be primary over any applicable insurance or self-insurance maintained by the County.

Shall provide 30 days written notice to the County before any cancellation, suspension, or void of coverage in whole or part, where such provision is reasonable.

All coverage for subcontractors of the bidder shall be subject to all of the requirements stated herein.

All deductibles or self-insured retention shall appear on the certificate(s) and shall be subject to approval by the County. At the option of the County, either; the insurer shall reduce or eliminate such deductible or self-insured retention; or the bidder shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

Failure to comply with any reporting provisions of the policy(s) shall not affect coverage provided the County, its officers/officials, agents, employees and volunteers.

The insurer shall agree to waive all rights of subrogation against the County, its' officers/officials, agents, employees or volunteers for any act, omission or condition of premises which the parties may be held liable by reason of negligence.

The bidder shall furnish the County certificates of insurance including endorsements affecting coverage. The certificates are to be signed by a person authorized by the insurance company(s) to bind coverage on its' behalf, if executed by a broker, notarized copy of authorization to bind, or certify coverage must be attached.

All insurance shall be placed with insurers maintaining an A.M. Best rating of no less than an "A".

TERMS & CONDITIONS
VIII – Bond & Insurance Continued

2.6 Property Insurance

A. Builder's Risk: Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

1. include the County and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 2.6, Paragraphs 2.7 and 2.8, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to County and Contractor.
3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including County-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
6. extend to cover damage or loss to insured property while in transit.
7. allow for partial occupation or use of the Work by County, such that those portions of the Work that are not yet occupied or used by County shall remain covered by the builder's risk insurance.

TERMS & CONDITIONS
VIII – Bond & Insurance Continued

2.6 Property Insurance Continued

8. allow for the waiver of the insurer's subrogation rights, as set forth below.
9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
10. not include a co-insurance clause.
11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
12. include performance/hot testing and start-up.
13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by County, until the Work is complete.

B. Notice of Cancellation or Change: All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 2.6 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

C. Deductibles: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.

D. Partial Occupancy or Use by County: If County will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, then County (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by County may come off the builder's risk policy, while those portions of the Work not yet occupied or used by County shall remain covered by the builder's risk insurance.

E. Additional Insurance: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 2.6, it may do so at Contractor's expense.

F. Insurance of Other Property: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

TERMS & CONDITIONS
VIII – Bond & Insurance Continued

2.7 Waiver of Rights

A. All policies purchased in accordance with Paragraph 2.6, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. County and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by County or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.

B. County waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy, after Substantial Completion, or after final payment .

C. Any insurance policy maintained by the County covering any loss, damage or consequential loss referred to in Paragraph 2.7 B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.

D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against the County, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

TERMS & CONDITIONS
VIII – Bond & Insurance Continued

2.8 Receipt and Application of Property Insurance Proceeds

A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 2.6 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 2.6 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

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Mount Holly Commerce Park Improvements Phase I
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TERMS & CONDITIONS
IX – Testing Requirements

1. GENERAL: Required inspection and testing services are intended to assist in determination of probable compliance of the Work with requirements, but do not relieve Successful Bidder of responsibility for compliance, or for general fulfillment of requirements of Contract documents. Specified inspections and tests are not intended to limit Successful Bidder's quality control program. The Successful Bidder shall afford reasonable access to agencies performing tests and inspections.

The technical specifications establish only a minimum testing criteria as to the type of test and number of tests required, and do not intend to limit the number of tests that the Successful Bidder may feel necessary to ascertain that he is in compliance with the specifications. It remains the responsibility of the Successful Bidder to ensure complete compliance, and; therefore, he may elect to provide more tests than the minimum set out in the specifications, but all at no additional cost to the County.

Neither the presence of and the testing performed by the testing laboratory, nor the review of the test results by the County implies in any way a warranty of the work performed by the Contractor. It remains the responsibility of the Successful Bidder to ensure that all work is performed in accordance with the plans and specifications.

Refer to all sections of the technical specifications for more detailed information of type, if any, and number of tests required for minimum submittals.

A) Laboratory Selection and Approval

The Successful Bidder shall engage an independent testing laboratory, one that is experienced and specializing in the type of testing services required, and will submit that name to the County for approval before beginning any scheduling of tests.

B) Reports

The Successful Bidder shall distribute copies of all test reports immediately to the Project Engineer and the County (and any other party at his discretion).

C) Costs

The Successful Bidder will be required to pay for any and all tests required of the technical specifications sections, and for any and all other tests he may desire to make, over and above the minimum required by the technical specifications.

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Mount Holly Commerce Park Improvements Phase I
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TERMS & CONDITIONS
IX – Testing Requirements Continued

D) Special Tests/Costs

The County may at any time, upon suspicion of deficient Work or materials, elect to have tests made by an independent testing laboratory. If it is determined by these tests that the work or the materials supplied by the Successful Bidder do not conform to the specifications, the Successful Bidder will be required to pay for all corrective action, replacement costs, extra fees (hired by County), and for all subsequent testing of that deficiency, and for other indirect costs to the County that may have resulted from the deficiency. Otherwise the County shall reimburse the Successful Bidder for reasonable costs incurred.

E) Access

The Successful Bidder shall provide access for testing laboratory personnel to the Work-Site at all times, and cooperate to the fullest with their requirements.

F) Taking of Specimens

All specimens and samples for testing will be taken by the testing laboratory (unless specified otherwise in the various related sections). All sampling equipment and personnel will be provided by the testing laboratory (except where noted otherwise in the various related sections of specifications).

G) Schedule

If applicable, the Successful Bidder shall prepare a schedule of tests to be made and submit to the Construction Administrator.

The Successful Bidder shall be responsible for notifying the testing laboratory, and with enough advance time to allow for them to make arrangements for testing as required. The Successful Bidder shall also notify County's Construction Administrator when he notifies the testing laboratory.

When changes in the construction schedule cause any change in the testing schedule, the Successful Bidder shall notify the testing laboratory and County's Construction Administrator and revise the testing schedule accordingly.

H) Items Requiring Testing

The Successful Bidder is responsible for reviewing every section of the specifications for verification in determining the actual testing and reports required for the project.

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Mount Holly Commerce Park Improvements Phase I
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TERMS & CONDITIONS

X – Time

1. **DEFINITION**: Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Completion of the Work.

The date of commencement of the Work is the date established in the Notice to Proceed. The Date of Completion of the Work or designated portion thereof is the Date certified by the County when construction is sufficiently complete, in accordance with the Contract Documents, so the County can occupy or utilize the Work or designated portion thereof for the use for which it is intended. The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

2. **PROGRESS AND COMPLETION**: All time limits stated in the Contract Documents are of the essence of the Contract. The Successful Bidder shall begin the Work on the date of the commencement as defined in the Notice to Proceed. He shall carry the Work forward expeditiously with adequate forces and shall achieve Completion within the Contract Time.

3. **INCLEMENT WEATHER**: In the event of temporary suspension of work or during inclement weather, or whenever the Construction Administrator shall direct, the Contractor will, and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Construction Administrator, any work or materials are damaged or injured by reason of failure of the Contractor or his subcontractors to protect their work, such materials shall be removed and replaced at the expense of the Contractor.

The Owner has reviewed weather data available from the National Oceanic and Atmospheric Administration (NOAA) station at the Charleston International Airport and determined a Standard Baseline of average climatic range for the project site.

- A) Standard Baseline shall be regarded as the normal and anticipatory number of calendar days for each month during which construction activity shall be expected to be prevented and suspended by cause of precipitation in excess of 0.10 inch liquid measure. Suspension of construction activity for the number of days each month as listed in the Standard Baseline is included in the Work and is not eligible for extension of Contract Time.

Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
6	5	5	5	5	7	8	9	6	4	4	5

- B) Adverse Weather is defined as the occurrence of one or more of the following conditions which prevents exterior construction activity or access to the site within twenty-four (24) hours:

1. Precipitation (rain, snow, ice, etc.) that prevents construction activities on the critical path.
2. Temperatures which do not rise above that specified for the day's construction activity by 12:00 PM, if any is specified.
3. Standing snow in excess of 1 inch.
4. Any day that the Owner has requested no work to be performed.

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TERMS & CONDITIONS

X – Time Continued

- C) A Weather Delay may be counted if adverse weather prevents work on the project for 50 percent or more of the Contractor's scheduled work day, including a weekend day or holiday if the Contractor has scheduled construction activity that day.
- D) Adverse Weather may include "dry-out" or "mud" days, as determined by the Construction Administrator such as:
1. If the Contractor's activity is limited to approximately 50 percent of the Contractor's activity before the Adverse Weather occurrence, then one half of a Weather Delay Day will be counted. For example if the Contractor is disking excavation and embankment areas to dry in situ moisture in the soils or hauling and placing unclassified excavation or borrow material to the embankment before an Adverse Weather occurrence, but is able to continue disking excavation and embankment areas or placing unclassified excavation or borrow material, one half of a Weather Delay Day will be allowed.
 2. If the Contractor's activity is limited to minor activity when compared to the Contractor's activity before the Adverse Weather occurrence, then one Weather Delay Day will be counted. For example, if the Contractor is disking excavation and embankment areas to dry in situ soils, hauling borrow material to embankment before an Adverse Weather occurrence, but is only able to disk excavation and embankment areas to dry them due to the Adverse Weather occurrence, one Weather Delay Day will be allowed.
- E) All weather data used to determine Adverse Weather for the project site during the course of work shall be data from the NOAA station at the Charleston International Airport. Therefore, the contractor shall on a monthly basis submit to the Construction Administrator a summary showing the Adverse Weather incurred for the month and the supporting documentation from the NOAA station at the Charleston International Airport confirming the Adverse Weather experienced.

4. TIME OF WORK:

- A) The normal time of work for this Contract is limited to 40 hours per week and shall generally be between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday. No work shall be scheduled on weekends or on holidays. Work outside of the normal time of work shall be allowed only with prior written approval from the Owner and the Engineer. Should the Contractor be allowed to work beyond the normal Monday through Friday hours or on weekends or holidays, he shall bear all costs incurred by the Owner for associated additional engineering and inspection services. The Owner shall deduct the cost of additional engineering costs from monies due the Contractor.
- B) The following BCWS holidays shall be observed each year:
1. New Year's Day (January 1st)
 2. Martin Luther King, Jr. Day (third Monday in January)
 3. Good Friday

Invitation for Bid
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TERMS & CONDITIONS

X – Time Continued

4. Memorial Day (last Monday in May)
 5. Independence Day (July 4th)
 6. Labor Day (first Monday in September)
 7. Veterans Day
 8. Thanksgiving Day (fourth Thursday in November)
 9. Day after Thanksgiving Day
 10. Christmas (December 23rd to 27th)
- C) If it shall become imperative to perform work at night, the Owner and Engineer shall be informed within a reasonable time in advance of the beginning of such work. Temporary lighting and all other necessary facilities for performing and inspecting the work shall be provided and maintained by the Contractor.

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TERMS & CONDITIONS
XI – Payment & Completion

1. CONTRACT SUM: The Contract sum shall be as stated elsewhere herein.
2. SCHEDULE OF VALUES: Within ten (10) calendar days of the commencement of Work, the Successful Bidder shall submit to the County a Schedule of Values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the County may require. This schedule, unless objected to by the County, shall be used only as a basis for the Successful Bidder's Applications for Payments.
3. APPLICATIONS FOR PAYMENT: On or before the 25th of each month, the Successful Bidder shall submit to the Construction Administrator an itemized Application for Payment, notarized if required, supported by such data substantiating the Successful Bidder's right to payment as the County may require, and reflecting retainage, if any, as provided elsewhere in the Contract Documents.

Unless provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the County, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing.

Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Successful Bidder of bills of sale or such other procedures satisfactory to the County to establish the County's title to such materials or equipment or otherwise protect the County's interest, including applicable insurance and transportation to the Work-Site for those materials and equipment stored off of the Work-Site.

The Successful Bidder warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the County either by incorporation in the construction or upon the receipt of payment by the Successful Bidder, whichever occurs first; free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to as "liens", and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Successful Bidder, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to a Contract under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Successful Bidder or such other person.

Contractor's Application for Payment should be submitted to the County on EJCDC Documents C-620, and supported by an actual progress schedule and the Contract Schedule of Values.

The period covered by each Application shall be not less than one (1) calendar month for Work completed for the period ending the 15th day of the same month.

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Mount Holly Commerce Park Improvements Phase I
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TERMS & CONDITIONS

XI – Payment & Completion Continued

4. PROGRESS PAYMENTS: The County shall make progress payments to the Successful Bidder, less retainage on undisputed amounts certified by the County's Construction Administrator for the County within thirty (30) days from receipt of the Application for Payment by the County, in accordance with Title 29, Chapter 6 of the Code of Laws of South Carolina, 1976, as amended.

The County will retain from each progress payment an amount equal to ten (10%) percent of the value of work covered by the progress payment. At Substantial Completion the total amount of payment will be ninety-five (95%) percent of the Contract sum, less those amounts that are withheld to cover incomplete work, incorrect work and unsettled claims.

The Successful Bidder shall promptly pay each subcontractor, upon receipt of payment from the County, out of the amount paid to the Successful Bidder on account of such subcontractor's Work, the amount to which said subcontractor is entitled, reflecting the percentage actually retained if any, from payments to the Successful Bidder on account of such subcontractor's work. The Successful Bidder shall, by an appropriate Contract with each subcontractor, require each subcontractor to make payments to his sub-subcontractors in a similar manner.

The County may, on request and at his discretion, furnish to any subcontractor, if practical, information regarding the percentages of completion or the amounts applied for by the Successful Bidder and the action taken thereon by the County on account of Work done by such subcontractor.

The County shall not have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law.

No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the County, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

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TERMS & CONDITIONS
XI – Payment & Completion Continued

5. PAYMENTS WITHHELD: The County may decline payment and may withhold it in whole or in part, from loss because of:
- A) Defective work not remedied
 - B) Third party claims filed, or reasonable evidence indicating probable filing of such claims.
 - C) Failure of the Successful Bidder to make payments properly to subcontractors for labor, materials or equipment.
 - D) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum
 - E) Damage to the County or another Contractor
 - F) Persistent failure to carry out the Work in accordance with the Contract Documents.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

6. SUBSTANTIAL COMPLETION (EJCDC Form C-625): When the Successful Bidder considers that the Work, or a designated portion thereof, which is acceptable to the County, is substantially complete, the Successful Bidder shall prepare for submission to the County a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Successful Bidder to complete all Work in accordance with the Contract Documents. If the County, on the basis of an inspection, determines that the Work or designated portion thereof is substantially complete, he will make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.
7. FINAL COMPLETION AND FINAL PAYMENT: Upon receipt of written notice that the Work is ready for final inspection and acceptance, and upon receipt of a final Application for Payment, the County will promptly make such inspection to ascertain if the Work is acceptable under the Contract Documents and the Contract is fully performed.

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TERMS & CONDITIONS
XI – Payment & Completion Continued

7. FINAL COMPLETION AND FINAL PAYMENT CONTINUED: Neither the final payment nor the remaining retained percentage shall become due until the Successful Bidder submits to the County and his Construction Administrator, the following:
- A) Final list of subcontractors
 - B) Instruction books for all equipment
 - C) Manufacturers' Warranties
 - D) Successful Bidder's release or waiver of liens (conditional upon receipt of final payment) submitted on the Successful Bidder's letterhead and notarized
 - E) Successful Bidder's Affidavit of Payment of Debts and Claims, AIA Form G706
 - F) Successful Bidder's Affidavit of Release of Liens, AIA Form G706A
 - G) Consent of surety to final payment, AIA Document F707, or latest edition equipment suppliers, if specifically requested by the County
 - H) Separate Release or Waiver of Liens from subcontractors and Material and Equipment Suppliers, if specifically requested by County
 - I)
 - J) Copies of testing reports
 - K) As-built drawings
 - L) Certificates: Submit to the County and his Construction Administrator certificates of approval, acceptance and compliance from all authorities and agencies having jurisdiction over the Work. The Work will not be deemed complete, nor will final payment be made, until such certificates have been delivered.

The Successful Bidder shall provide one (1) original paper copy and one digital copy of each of the specified documents to the County in a close-out document book consisting of a three ring binders with a Table of Contents and tabbed for each category unless otherwise specified in the specifications.

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TERMS & CONDITIONS
XI – Payment & Completion Continued

The making of final payment shall constitute a waiver of all claims by the **County** except those arising from:

- A) Unsettled liens
- B) Faulty or defective Work appearing after Substantial Completion
- C) Failure of the Work to comply with the requirements of the Contract Documents, or
- D) Terms of any special warranties required by the Contract Documents.

The acceptance of final payment shall constitute a waiver of all claims by the Successful Bidder, except those previously made in writing and identified by the Successful Bidder as unsettled at the time of the final Application for Payment.

8. **NON-RESIDENT CONTRACTORS:** Any Successful Bidder, who is a non-resident, shall be aware of Section 12-9-310, Article 3, of the South Carolina Income Tax Act of 1926, as amended. This article requires the County entering into a Contract with a non-resident taxpayer, where such Contract exceeds Ten Thousand and 00/100, (\$10,000.00) Dollars, to withhold two (2%) percent of each payment made to the non-resident. The funds deducted from the payment made to the non-resident Contractor are funds deemed to be held in trust for the State of South Carolina and will be reported by the County to the South Carolina Tax Commission. This Deduction is in addition to the retainage deductions specified in the General Conditions.

Modifications to the South Carolina Income Tax Act made January 1, 1993, allowing a non-resident Contractor to apply for an exemption or partial exemption from the two (2%) percent withholding rule. The non-resident Contractor must complete a "Nonresident Taxpayer Request for Exemption Affidavit" (Form WH 303), "Nonresident Taxpayer Affidavit" (Form I-312) and a subcontractors list. The South Carolina Tax Commission will make the determination and notify both Contracting parties of the qualified exempt or partially exempt Contracts.

All Contracts for Ten Thousand and 00/100, (\$10,000.00) Dollars or more with non-residents which do not qualify for exemption will require the withholding of two (2%) percent from each payment as described above. The non-resident Contractor may elect to post a surety bond with the South Carolina Tax Commission to eliminate this withholding requirement. The non-resident must complete and submit the Bond (Form L-2074) and a "Nonresident Taxpayer Affidavit" (Form I-312) to the South Carolina Tax Commission for review and approval. The County must receive verification from the South Carolina Tax Commission if this deduction is to be waived.

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TERMS & CONDITIONS
XII – Changes In The Work

1. CHANGE ORDERS (EJCDC Form C-941): A Change Order is a written order to the Successful Bidder signed by the County and issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by a Change Order. A Change Order signed by the Successful Bidder indicates his Contract therewith, including adjustment in the Contract Sum or the Contract Time.

If, during the progress of the Work it should be necessary, in order to complete the Contract fully and satisfactorily, to provide for substitutions or make alterations in the character or limits of the Work or materials called for in the Contract, a change in Contract (Change Order) shall be prepared by the County under prescribed form and shall be signed by the County and the Successful Bidder. Such change in Contract (Change Order) shall not become effective or binding until approved by the County, in writing.

The County, without invalidating the Contract may order changes within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

The basis for any equitable adjustment of the Contract for extra or reduced Work authorized shall be as follows:

- A. When changes are made in the character or limits of the Work or materials called for in the Contract Drawings or Specifications to provide for extra Work ordered by the County that cause an increase in the amount due to the Successful Bidder and such changes consist of Work that is similar to that called for in the Contract Documents and for which unit prices are quoted in the Bid, or for which unit prices were previously submitted to County and approved by County, the additional cost for such Work shall be paid for on the basis of said unit prices quoted by the Successful Bidder's Bid or approved price list for the item of Work affected. Any reduction of the Contract Sum for subcontracted charges shall be computed on the same basis.

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TERMS & CONDITIONS
XII – Changes In The Work Continued

1. CHANGE ORDERS CONTINUED: When any change which, in the opinion of the County, is dissimilar to that called for in the Contract Drawings and Specifications and for which unit prices were not quoted in the Bid, causes such increase or decrease in the amount due the Successful Bidder the increase or decrease in the Successful Bidder's compensation shall be determined as follows:

(1) To the direct cost of labor and materials incorporated in the extra or subtractive Work and a rental cost for equipment used in the prosecution thereof there shall be added sixteen (16%) percent to cover indirect costs and the Successful Bidder's profit [when items are to be apportioned with nine (9%) percent to the subcontractor and seven (7%) percent to Successful Bidder], all as hereinafter stipulated.

B. The items used in the previous paragraphs of this Section only are defined as follows:

- (1) "Labor" means laborers, mechanics, and workmen directly engaged in the performance of the extra or subtractive Work, whether employed by the successful Bidder or by the subcontractor.
- (2) "Cost of Labor" means the proportion of the wages that will actually be or would have actually been paid to or received by such laborers, mechanics, and workmen and the proportion of the premiums that would actually be or would have actually been paid for workman's compensation, insurance, social security, unemployed or any other fringe benefit required by an agreement or customary to the trade upon the basis of such wages.
- (3) "Cost of Materials" means the prices for which materials are sold by the manufacturers or producers thereof, or by regular dealers therein, whether or not such materials are purchased directly from the manufacturer, producer, dealer, or (if the Successful Bidder is a manufacturer or producer thereof), reasonable cost to the Successful Bidder for the manufacturer or production, plus the reasonable cost of delivering such materials to the Work-Site in the event that the price paid to the manufacturer, producer or dealer does not include delivery. If such State or other taxes are applicable to materials, the cost of this tax shall be added to the above cost.
- (4) "Rental of Equipment" means the total rental for the time the equipment will be or would have been used in the prosecution of the extra or subtractive Work, computed in accordance with the schedule recommended by the Associated General Contractors of America, Inc.

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TERMS & CONDITIONS
XII – Changes In The Work Continued

1. CHANGE ORDERS CONTINUED:

- (5) "Indirect Costs" mean overhead, superintendent, insurance (other than workman's compensation), taxes (other than taxes on materials), materials used for temporary structures, allowances made by the successful Bidder to the subcontractor, additional premiums on the Successful Bidder's bond and all miscellaneous items of cost and expense to the Successful Bidder.

In computing increases and decreases in the Successful Bidder's compensation to cover such extra or subtractive Work, no consideration shall be given to any items of cost or expense not specifically set forth in this Section, and it is expressly agreed that the percentage addition of sixteen (16%) percent hereinbefore provided covers all items of indirect cost and expense with fair and reasonable profit to the Successful Bidder and any subcontractor for the performance or omission of performance of such extra or subtractive Work.

Upon claim for payment under a change in Contract (Change Order), the County may call for and shall be furnished with paid bills or other supporting data that may be required.

No compensation shall be allowed under a change in Contract (Change Order) for any person not actively or exclusively engaged in the performance of the specified Work.

No Work shall be started or performed under the approved change in Contract (Change Order) until the County directs the Successful Bidder to commence Work thereon.

Any change in the Time of Completion shall be as agreed between the Successful Bidder and the County and shall be shown on the change in Contract (Change Order) approved by the County. If no adjustment is made on the change in Contract (Change Order) form, any increase or decrease in the Time of Completion shall be considered waived by the Successful Bidder.

If none of the methods set forth hereto is agreed upon, the Successful Bidder, provided he receives a written order signed by the County which directs him to proceed, shall promptly proceed with the changed Work involved. The cost of such Work shall then be determined by the Construction Administrator on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, the Successful Bidder shall present, in such form as the County and Construction Administrator may prescribe an itemized accounting together with appropriate supporting data for inclusion in a Change Order.

TERMS & CONDITIONS
XII – Changes In The Work Continued

2. CHANGE ORDERS CONTINUED:

Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, workers' or workman's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. The amount of credit to be allowed by the Successful Bidder to the County for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Construction Administrator. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change. In no event shall any expenditure or savings associated with the Successful Bidder's home office or other non-worksite overhead expense be included in any change in the Contract Price.

If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the County or the Successful Bidder, the applicable unit prices shall be equitably adjusted.

2. FIELD ORDERS (EJCDC Form C-942): A Field Order shall be an agreement between the Construction Administrator and the Successful Bidder which if implemented shall have no cost effect upon the Contract Price or in the Contract Time.

A Field Order may be initiated by the Construction Administrator or the Successful Bidder. All Field Orders shall be approved in writing by the Construction Administrator prior to implementation by the Successful Bidder. All approved field orders shall be on the form as provided by the Construction Administrator. The Field Orders shall be signed by the Construction Administrator and the Successful Bidder or their authorized representative. Such changes by Field Orders shall be binding upon the Successful Bidder or their authorized representative. Such changes by Field Orders shall be binding upon the Successful Bidder and carried out promptly.

3. CONSEALED CONDITIONS: Should concealed conditions be encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, and when the condition could not have been determined by the Successful Bidder by careful examination of the site

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TERMS & CONDITIONS
XII – Changes In The Work Continued

3. CONSEALED CONDITIONS CONTINUED:

or the structure prior to commencement of the Contract, the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within seven (7) days after the first observance of the conditions.

4. CLAIMS FOR ADDITIONAL COST: If the Successful Bidder wishes to make a claim for an increase in the Contract Sum, he shall give the County written notice thereof within seven (7) days after the occurrence of the event, giving rise to such claim. This notice shall be given by the Successful Bidder before proceeding to execute the Work. No such claim shall be valid unless documented and submitted to the County within allocated time period. The amount of the adjustment in the Contract Sum shall be determined by the Construction Administrator. Any change in the Contract Sum resulting from such claim must be authorized by Change Order.

Failure to maintain and make available documentation as required by the Contract Documents, or failure to provide appropriate supporting data requested under the provisions of the Contract Documents, shall be a basis for denying any claim for additional cost and shall constitute a waiver of any claim for additional cost.

5. OTHER CHANGES IN THE WORK: Except as hereinbefore specified, any extra work done or any changes made without written authority on the prescribed change in Contract (Change Order) form shall be considered unauthorized unless otherwise directed by County, and at the expense of the Successful Bidder, and shall not be paid for by the County. At the option and direction of the County, work so done may be ordered removed, or removed and replaced at the Successful Bidder's expense.
6. UNCOVERING WORK: If any of the Work is covered contrary to the Construction Administrator's request or to any provision of this Contract, it shall, if required by the Construction Administrator or the County, be uncovered for the Construction Administrator's inspection and shall be properly replaced at the Successful Bidder's expense without change in the Contract Time.

If any of the Work is covered in a manner not consistent with the aforementioned paragraph above, it shall, if required by the Construction Administrator or County, be uncovered for the Construction Administrator's inspection. If such Work conforms strictly to this Contract, costs of uncovering and proper replacement shall be by Change Order and be charged to the County. If such Work does not strictly conform to this Contract, the Successful Bidder shall pay the costs of uncovering and proper replacement.

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TERMS & CONDITIONS

XIII – Project Meetings

1. PRE-CONSTRUCTION PROJECT MEETINGS: After award, prior to commencement of any Work, a Pre-Construction Meeting shall be scheduled by the County. The Successful Bidder shall see that responsible company management representatives and key project personnel attend this meeting.

At this Meeting the Successful Bidder shall be oriented with respect to the County's procedures and lines of authority and with respect to contractual administration, and construction matters. The Successful Bidder shall make known his key personnel and their respective duties and responsibilities. Additionally, a schedule of required submittals will be discussed.

2. PROJECT PROGRESS MEETINGS: A Progress Meeting will be held bi-weekly to determine the overall progress of the Work; to review the Successful Bidder's schedule; to discuss any problems which have arisen or are anticipated. These meetings shall be attended by the Successful Bidder, the County's Construction Administrator, the County's Project Manager, the County's Contract Administrator, and any other persons or parties, which might be involved in this project, directly or indirectly.

In addition to the regular meetings to be held bi-weekly, special meetings will be held when a situation arises, which in the opinion of the County's Construction Administrator, deems such action.

The Construction Administrator shall coordinate meetings, prepare agenda, preside at meetings, record minutes, and distribute copies to County, Successful Bidder and those affected by the decisions made unless otherwise agreed by all parties.

Successful Bidder shall afford the County copies of minutes of meetings held with Subcontractors as it relates to decisions and performance, which effect the project and the County.

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TERMS & CONDITIONS
XIV – Termination

1. TERMINATION: Subject to the provisions below, the County may terminate the solicitation/contract by providing a thirty (30) day written advance notice to Contractor.

1.1 Termination for Convenience: In the event this solicitation/contract is terminated or cancelled for the convenience of the County, the County will negotiate reasonable termination costs, if any.

1.2 Non-Appropriations: Any contract entered into by the County shall be subject to cancellation without damages or further obligation when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year. Any final agreement accepted by the County MUST include the following language:

This contract is approved and funded contingent upon annual appropriations being established by Berkeley County Council to provide funding necessary to meet the requirements of the contract. Such funding is approved on a fiscal year basis with the fiscal year commencing on July 1st and terminating on June 30th of the following year. In order for the contract to remain in effect, such appropriation must be approved on an annual basis throughout the term of the contract. In the event that an annual appropriation is not approved, Berkeley County shall not be held responsible for any liabilities beyond the remaining annual term prior to the new budget year.

1.3 Termination for Cause: The County may terminate the contract at any time for the failure of the Contractor to perform any obligation under this solicitation/contract, or for any other good and sufficient cause. The County shall only pay Contractor for services rendered prior to the termination notice date, less any liquidation costs assessed for Contractor non-performance.

1.4 Mitigation of Termination Costs: In the event that the contract is terminated, Contractor will be liable for any costs in excess of contract pricing incurred by the County to complete the contract or provide for continuity of services. The County reserves the right to purchase any or all services and materials on the open market. The County will not entertain subsequent offers from the terminated Contractor until these liquidation costs are paid by Contractor.

Such costs may include, but are not limited to, the cost of using the County's employees or employees of any other entity to perform the obligations of the contract. The County may obtain any such reimbursement by deduction from payments otherwise due to Contractor or by any other proper and lawful means. All deductions from any money due Contractor are to be as liquidated damages

TERMS & CONDITIONS
XIV – Termination Continued

1.4 Mitigation of Termination Costs Continued:

and not as a penalty. It is the County's intent to give Contractor a reasonable opportunity, whenever practicable, to correct any such failure to perform or satisfactorily perform its responsibilities and duties. In no circumstances shall any uncorrected situation extend for more than five days. The County will make the following deductions from the contract sum in the event that the contractor fails to perform any of the required work within the required time limits in the event the County carries out the work using its forces or another contractor.

1.4.1 For use of County's forces – actual cost involved.

1.4.2 For use of another contractor – the amount charged by said Contractor.

The County reserves the right to hold back and/or withhold part of complete payments for unsatisfactory work, deficiencies, etc. until said defects are satisfactorily corrected or cleared.

- 1.5 Excusable Delay: Contractor will not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. However, to the extent an event arises beyond the control and without the fault or negligence of contractor, contractor shall notify the Construction Administrator and the County's Procurement Department in writing within twenty-four hours of such event. Otherwise, the event shall not serve as an excusable delay. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the fault of a subcontractor, and if such default arises out of control of causes beyond the control of both Contractor and subcontractor, and without the fault or negligence of either of them, Contractor will not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

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TERMS & CONDITIONS

XV – Miscellaneous

1. COUNTY FURNISHED MATERIAL: County-Furnished materials for contractor installation are identified in the drawings. The Successful Bidder shall notify the County at least fourteen (14) days in advance that the required material should be delivered to the Work-Site.
2. SALVAGED ITEMS: There will be no salvaged items under this Contract unless otherwise specified in the plans and technical specifications.
3. WORK-SITE SECURITY: The Successful Bidder shall be responsible for security on the Work-Site against such acts as mischief, violence, burglary, arson, vandalism, etc. In addition, the Successful Bidder shall secure the Work-Site, including materials delivered or stored thereon, against damage by acts of nature and man. The County assumes no responsibility for Work-Site security.
4. FIELD OFFICES AND SHEDS:
 - A) Field Office: Work-Site field office by the Successful Bidder is not considered a requirement in the performance of this Contract. This does not exclude the Successful Bidder from having such an office, but no cost directly or indirectly shall be applicable to the Contract costs.
 - B) Temporary Sheds: If determined necessary, any temporary facilities shall be the responsibility of the Successful Bidder and subcontractors, at no cost to the County in the performance of this Contract. Location of temporary storage facilities, if any, shall be approved and coordinated through the County's Construction Administrator and County Project Manager or appropriate representative.
 - C) Removal: At the completion of the Contract, or as directed by the County, remove all temporary buildings, sheds and trailers from the Work-Site and leave grounds in condition as specified in other sections.
5. TEMPORARY UTILITIES AS MAY BE APPLICABLE: The Successful Bidder shall make arrangements to provide all water or any other utilities that may be required during the entire construction period. If water is taken from a fire hydrant for any reason, the Successful Bidder shall use a hydrant meter as required by Berkeley County Water & Sanitation.
6. TEMPORARY SANITARY FACILITIES: The Successful Bidder shall provide and maintain temporary toilet facilities for use by all personnel on the project site. Toilets shall be the temporary types, complete with water and sewage connections, or shall be a portable type approved by jurisdictional authority. Temporary toilet facilities shall be removed from premises upon completion of project.

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TERMS & CONDITIONS
XV – Miscellaneous Continued

7. CONSTRUCTION ACCESS: If applicable, the Successful Bidder and his subcontractors shall enter and exit through the Work-Site as shown on the Drawings, or as designated by the Construction Administrator. The Successful Bidder shall construct and maintain construction access to the Work, construct roads, place fill, and install geogrid or fabric as necessary to perform the Work, and rework roads during and after inclement weather as necessary to maintain construction areas.

The Successful Bidder shall become familiar with the drainage characteristics of the Site; maintain existing ditches or create new, temporary ditches as necessary to maintain construction access; and grade or regrade Site as necessary to divert surface runoff away from work areas.

8. HISTORICAL OR ARCHAEOLOGICAL SITES: Should the Successful Bidder's operations uncover artifacts of possible historical or archaeological significance, he shall temporarily discontinue operations in such area, or areas, and immediately advise the County. The County may make arrangements with archaeological authorities, for immediate investigations of such area, or areas. The Successful Bidder is cautioned that such artifacts are property of the County and are not to be removed from the project whether or not determined to be of historical or archaeological value.

9. PROTECTION OF EXISTING TREES, BUFFER ZONES, AND UNDISTURBED AREAS: Any "Buffer Zones" of vegetation so designated on the drawings shall be protected and no construction activity shall be permitted in any such areas, unless specifically indicated on the drawings.

The Successful Bidder will be held liable for damaged or destroyed trees. Damage assessment shall be based on replacement value of equivalent, installed trees that are satisfactory to the governing agencies.

In the event of an intrusion into a buffer zone, the Successful Bidder will be responsible for all costs associated with restoration, including fines, legal fees, etc. The Successful Bidder gives up any right to perform the restoration work, but instead will be required to pay all costs associated with retaining experts with appropriate skills.

10. EXISTING FACILITIES AND CONDITIONS: The Successful Bidder should be advised that numerous underground obstructions might exist within the area of work. The Successful Bidder shall use reasonable care when excavating.

Locate existing underground utilities in the areas of work. If utilities are to remain in place, provide adequate means of protection during all operations.

TERMS & CONDITIONS
XV – Miscellaneous Continued

10. EXISTING FACILITIES AND CONDITIONS CONTINUED: Should uncharted or incorrectly charted utilities be encountered during excavation, contact the County's Construction Administrator immediately for directions as to procedure. Cooperate with County's Construction Administrator and utility companies in keeping respective services and facilities in operation. Repair damaged utilities to the satisfaction of utility companies. Do not interrupt existing utilities serving facilities occupied and used by others, except when permitted in writing by the County and then only after acceptable temporary utility services have been provided.

Any damage to existing facilities will be repaired at the Successful Bidder's expense. This includes damages to above ground or underground utilities owned by third party operators.

The Successful Bidder shall verify the existing topographic and existing utility locations, both horizontal and vertical, prior to beginning any work. Should the Successful Bidder find any discrepancies, he shall immediately notify the County's Construction Administrator.

11. PRECONSTRUCTION PHOTOGRAPHS: Prior to the beginning of any work, and if considered necessary by the County's Construction Administrator, the Contractor shall take project photographs of the work area to record existing conditions. All conditions that might later be subject to disagreement shall be shown in sufficient detail to provide a basis for decisions. The photographs shall include the date and time marking of the recording. All photographs shall be labeled on a tab connected to the bottom of the photo to indicate date and description of work shown.
12. PROTECTION OF IN-PLACE WORK: Protect in-place Work during all stages of construction from damage due to inclement weather, vandalism, theft, and adjacent work activities performed by others as may be applicable. Grade, dig ditches, and provide pumping, as necessary to prevent damage or delay from inclement weather, and to ensure that the Work-Site remains in satisfactory condition for work at all times. Erect temporary barricades, security fences, and provide watchmen, as may be necessary to prevent damage or delay from vandalism, theft, and any other potential loss, or public hazard. If applicable, coordinate with others performing Work on the County's property by becoming familiar with the activities of others that could impact the Work under this Contract. Schedule and make arrangements with others as necessary to prevent damage or delay caused by the Work activities of others.
13. DISPOSAL OF MATERIALS, OFF THE COUNTY'S PROPERTY: The Successful Bidder shall indemnify and hold harmless the County from any and all losses, expenses, damages, demands, and claims asserted against or sustained by the County as a result of or alleged to be the result of illegal, improper, or unauthorized disposal of material off of the County's property.

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TERMS & CONDITIONS
XV – Miscellaneous Continued

14. ENVIRONMENTAL PROTECTION MEASURES: Pollutants such as fuels, lubricants, bitumen, and other harmful materials shall not be discharged on the ground or into the existing area drainage system. Likewise, wash water or wastes from concrete or other mixing operations shall not be allowed to enter live streams or rivers, or stream or riverbeds. The Successful Bidder shall comply with guidelines of the South Carolina Coastal Council's (O.C.R.M.) *"Storm Water Management and Sediment Control Handbook (latest edition)"* during the entire construction period. Sediment and erosion control practices may include temporary sediment basins, silt fence, etc.

If it is necessary during the prosecution of the Work to interrupt existing natural surface drainage patterns, the Successful Bidder shall take all necessary measures to protect and preserve the natural drainage-ways or to provide temporary drainage routing until the natural drainage pattern can be restored. The Successful Bidder will, at all times, maintain proper drainage within the limits of construction. The Successful Bidder is urged to use tracked equipment where possible to prevent rutting and displacement of the existing natural grade.

The County's Construction Administrator may temporarily suspend the Work when satisfactory results cannot be obtained because of unfavorable field conditions.

15. WRITTEN NOTICE: Written notice shall be deemed to have been duly served if delivered in person to an individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.
16. 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 other party or of any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

17. MATERIAL AND WORKMANSHIP:

A) All equipment, materials and articles incorporated in the Work covered by the Contract and supplied by the Successful Bidder are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this Contract, reference to any equipment, material article or patented process, by trade name, make or catalog number, shall not be construed as limiting competition. When requested, the Successful Bidder shall furnish to the County for approval, the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and

TERMS & CONDITIONS
XV – Miscellaneous Continued

17. MATERIAL AND WORKMANSHIP CONTINUED:

mechanical and other equipment that the Successful Bidder contemplates incorporating in the Work. When required by this Contract or when called for by the County for approval, full information concerning the material or articles, which he contemplates incorporating in the Work. When so directed, samples shall be submitted for approval at the Successful Bidder's expense, with all shipping charges prepaid. Machinery, equipment, materials and articles installed or used without required approval shall be at the risk of subsequent rejection.

- B) All Work under this Contract shall be performed in a skillful and workmanlike manner. The County may, in writing, require the Successful Bidder to remove from the Work any employee the County deems incompetent, careless or otherwise objectionable.

18. REMOVAL AND REPLACEMENT OF UNSUITABLE MATERIAL: This section applies to Site Preparation and includes the mucking of unsuitable materials and replacement with suitable type materials, and compacted in place.

The Successful Bidder must notify the County, in writing, prior to undertaking such work and provide verification that recommended removal and replacement is necessary. The notification shall include cross-sections showing original ground-line and line of removal and replacement of the topsoil, which is included in the estimated price. An estimate of the amount of mucking replacement shall be included in the notification. Final amount to be paid shall be based on the cross-sections prepared by the Successful Bidder with the final excavation included.

The Successful Bidder shall request mucking of unsuitable materials on a Change Order. No claims for additional cost shall be valid unless executed as set forth herein. The Successful Bidder's cubic yard fill cost shall be for mucking of unsuitable material, replacement and compaction with suitable material.

19. INSPECTION AND ACCEPTANCE:

- A) All Work (which term includes, but is not restricted to materials, workmanship, manufacture and fabrication of components) shall be subject to inspection and test by the County at all reasonable times and places prior to acceptance. Any such inspection and test is for the sole benefit of the County and shall not relieve the Successful Bidder of the responsibility of providing quality supplies to comply with the Contract requirements. No inspection or tests by the County shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Successful Bidder of the responsibility for damage to or loss of the material prior to acceptance or in any way affect the continuing rights of the County after acceptance of the completed Work.

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TERMS & CONDITIONS
XV – Miscellaneous Continued

19. INSPECTION AND ACCEPTANCE CONTINUED:

B) The Successful Bidder shall, without charge, replace any material or correct any workmanship found by the County not to conform to the requirements, unless the County consents to accept such material and workmanship with an appropriate adjustment in price. The Successful Bidder shall promptly remove rejected material from the premises.

20. RETENTION OF RECORDS: The Successful Bidder agrees to maintain for three (3) years from the date of final payment, and when all other pending matters are closed under this Contract, all books, documents, papers, and records pertinent to this Contract. The Successful Bidder agrees to provide to the County, the Federal Grantor Agency, the Comptroller General of the United States, or any of their duly authorized representatives access to such books, documents, papers, and records for the purpose of examining, auditing, and copying them. The Successful Bidder further agrees to include these provisions in any Subcontracts issued by him in connection with this Contract.

21. LICENSES/PERMITS: The Successful Bidder or subcontractor must comply with the regulations promulgated in the State of South Carolina General and Mechanical Contracting Act as enforced by the South Carolina Licensing Board for Contractors. Both the Successful Bidder and his subcontractors are responsible at all times for obtaining applicable work permits, at no cost to the Successful Bidder or his subcontractors. Contractor's License Number and Person's Name, and Business Name must be shown together on the License.

22. GRATUITIES AND KICKBACKS:

A) Gratuities: It shall be unethical for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

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TERMS & CONDITIONS
XV – Miscellaneous Continued

22. GRATUITIES AND KICKBACKS CONTINUED:

- B) Kickbacks: It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the Successful Bidder, or to hire any subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

23. CLEAN UP WORK:

- A) During construction the Successful Bidder and subcontractors shall keep the Work-Site, areas adjacent to the Work-Site, and access roads in an orderly condition, free and clear from debris and discarded materials. Care shall be taken to prevent spillage when hauling is being done. Any spillage or debris resulting from the Successful Bidder's operations shall be immediately removed.
- B) Upon completion of the work, the Successful Bidder and subcontractor shall remove from the work site, areas adjacent to the Work-Site and access roads all plant, buildings, debris, unused materials, concrete forms and other like material belonging to him or used under his direction during the construction.
- C) If the Successful Bidder or subcontractors fail to clean up at the completion of the work, the County may do so as provided in the County's right to carry out the work, and the cost therefore shall be charged to the Successful Bidder.

24. INDEPENDENT CONTRACTOR: The Successful Bidder and all subcontractors are independent contractors and shall not be deemed the agent or employee of the County for any purpose whatsoever. The Successful Bidder shall not hold himself out as an employee of the County, and shall have no power or authority to bind or obligate the County in any manner, except the County shall make payment to Successful Bidder for services and expenses as herein provided. The Successful Bidder shall obtain and maintain all licenses and permits required by law for performance of this Contract by him or his employees, agents, and servants. The Successful Bidder shall be liable for and pay all taxes required by Local, State or Federal governments, including but not limited to Social Security, Workers' Compensation Employment Security, and any other taxes and licenses required by law. The County shall pay no employee benefits of any kind to or for the benefit of Successful Bidder or his employees, agents, and servants by reason of this Contract.

25. DEBRIS REMOVAL: The Successful Bidder shall remove all debris by hauling in an acceptable manner and disposing of it at an approved site. The Successful Bidder shall comply with all local, County or State laws and regulations applicable to debris removal and disposal in effect at the time of the Contract award. Burning of debris will not be permitted.

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

THIS CONTRACT made and entered into this the ____ day of _____, 2020 by and between Berkeley County Government, South Carolina, hereinafter referred to as the "County" and _____, hereinafter referred to as the "Contractor".

WHEREAS, the County has determined that it is necessary and in the best public interest to construct the Mount Holly Commerce Park Phase I Improvements located in Moncks Corner, SC, and

WHEREAS, the Contractor hereby agrees to provide construction services as contracted for in the Contract Documents and in accordance with the terms, conditions and specifications thereof.

The County agrees to pay the Contractor _____
(\$_____) Dollars to provide construction services:

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NOTWITHSTANDING any provisions to the contrary, the Contractor further represents to the County that he is qualified to act as the Contractor for the project and is licensed by all appropriate agencies and entities having authority over the Contractor and the project. The Contractor further agrees that he will maintain all necessary licenses, permits or other authorizations necessary to act as the Contractor for the project until all the obligations herein have been satisfied. The Contractor shall further assume full responsibility to the County for the improper acts and omissions of his sub-contractors or others employed or retained by him in connection with the project. By execution of this contract the Contractor represents that they have become familiar with the project and the local conditions under which the work is to be implemented.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the day first written above.

BERKELEY COUNTY GOVERNMENT

BY: _____
JOHN CRIBB
COUNTY SUPERVISOR

ATTEST: _____

CONTRACTOR

BY: _____
PRINTED SIGNATURE
TITLE

ATTEST: _____

NOTICE OF AWARD

Date of Issuance:

Owner: Berkeley County Water & Sanitation Owner's Contract No.:
Engineer: Hazen and Sawyer Engineer's Project No.: 30557-004
Project: Mount Holly Commerce Park Contract Name:
Improvements 1

Bidder:

Bidder's Address:

TO BIDDER:

You are notified that Owner has accepted your Bid dated [] for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

[describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is: \$ [] *[note if subject to unit prices, or cost-plus]*

[] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically. *[revise if multiple copies accompany the Notice of Award]*

☐ a set of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner [] counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]* and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner:

Authorized Signature

By:

Title: Director of Procurement

Copy: Engineer

NOTICE TO PROCEED

Owner:	Berkeley County Water & Sanitation	Owner's Contract No.:	BCWS
Contractor:		Contractor's Project No.:	
Engineer:	Hazen and Sawyer	Engineer's Project No.:	30557-004
Project:	Mount Holly Commerce Park Improvements Phase 1	Contract Name:	
		Effective Date of Contract:	

TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [], 20[]. *[see Paragraph 4.01 of the General Conditions]*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, [the date of Substantial Completion is _____, and the date of readiness for final payment is _____] *or* [the number of days to achieve Substantial Completion is _____, and the number of days to achieve readiness for final payment is _____].

Before starting any Work at the Site, Contractor must comply with the following:
[Note any access limitations, security procedures, or other restrictions]

Owner:

Authorized Signature

By:

Title:

Date Issued:

Copy: Engineer

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):* Berkeley County Water & Sanitation
212 Oakley Plantation Drive
Moncks Corner, SC 29461

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, including the **two-year warranty obligation**, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 ~~The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.~~

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for

performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction

Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

~~11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.~~

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction

Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*: Berkeley County Water & Sanitation

212 Oakley Plantation Drive

Moncks Corner, SC 29461

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(seal)

Contractor's Name and Corporate Seal

(seal)

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

- the Surety (at the address described in Paragraph 13).
1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
 2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
 3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
 4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
 5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to
 6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
 7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
 8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
 9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
 10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on

behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;

5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner:	Berkeley County Water & Sanitation	Owner's Contract No.:	
Contractor:		Contractor's Project No.:	
Engineer:	Hazen and Sawyer	Engineer's Project No.:	30557-004
Project:	Mount Holly Commerce Park Improvements Phase 1	Contract Name:	

This [preliminary] [final] Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

Amendments to Owner's responsibilities: ☐ None
☐ As follows

Amendments to Contractor's responsibilities: ☐ None
☐ As follows:

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

EXECUTED BY ENGINEER:		RECEIVED:		RECEIVED:	
By: _____	By: _____	By: _____		By: _____	
(Authorized signature)		Owner (Authorized Signature)		Contractor (Authorized Signature)	
Title: _____	Title: _____	Title: _____		Title: _____	
Date: _____	Date: _____	Date: _____		Date: _____	

NOTICE OF ACCEPTABILITY OF WORK

PROJECT: MOUNT HOLLY COMMERCE PARK IMPROVEMENTS PHASE 1

OWNER: BERKELEY COUNTY WATER & SANITATION

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER: HAZEN AND SAWYER

NOTICE DATE:

To: Berkeley County Water & Sanitation
Owner

And To: _____
Contractor

From: Hazen and Sawyer
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.
- 7.

By: _____

Title: _____

Dated: _____

Work Change Directive No.

Date of Issuance:

Effective Date:

Owner: Berkeley County Water & Sanitation

Owner's Contract No.:

Contractor:

Contractor's Project No.:

Engineer: Hazen and Sawyer

Engineer's Project No.: 30557-004

Project: Mount Holly Commerce Park
Improvements Phase 1

Contract Name:

Contractor is directed to proceed promptly with the following change(s):

Description:

Attachments: *[List documents supporting change]*

Purpose for Work Change Directive:

Directive to proceed promptly with the Work described herein, prior to agreeing to changes on Contract Price and Contract Time, is issued due to: *[check one or both of the following]*

☐ Non-agreement on pricing of proposed change.

☐ Necessity to proceed for schedule or other Project reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price \$ [increase] [decrease].

Contract Time days [increase] [decrease].

Basis of estimated change in Contract Price:

☐ Lump Sum

☐ Unit Price

☐ Cost of the Work

☐ Other

RECOMMENDED:

AUTHORIZED BY:

RECEIVED:

By:
Engineer (Authorized Signature)

By:
Owner (Authorized Signature)

By:
Contractor (Authorized Signature)

Title:

Title:

Title:

Date:

Date:

Date:

Approved by Funding Agency (if applicable)

By:

Date:

Title:

Change Order No. _____

Date of Issuance: _____ Effective Date: _____
 Owner: Berkeley County Water & Sanitation Owner's Contract No.: _____
 Contractor: _____ Contractor's Project No.: _____
 Engineer: Hazen and Sawyer Engineer's Project No.: 30557-004
 Project: Mount Holly Commerce Park Improvements Phase 1 Contract Name: _____

The Contract is modified as follows upon execution of this Change Order:

Description: _____

Attachments: *[List documents supporting change]*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ _____	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
 Title: _____

Field Order No. _____

Date of Issuance:

Effective Date:

Owner: Berkeley County Water & Sanitation

Owner's Contract No.:

Contractor:

Contractor's Project No.:

Engineer: Hazen and Sawyer

Engineer's Project No.: 30557-004

Project: Mount Holly Commerce Park
Improvements Phase 1

Contract Name:

Contractor is hereby directed to promptly execute this Field Order, issued in accordance with General Conditions Paragraph 11.01, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference:

Specification(s)

Drawing(s) / Detail(s)

Description:

Attachments:

ISSUED:

RECEIVED:

By:

Engineer (Authorized Signature)

By:

Contractor (Authorized Signature)

Title:

Title:

Date:

Date:

Copy to: Owner



Application For Payment
Change Order Summary

Contractor's Certification

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment.

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances), and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Berkeley County

APPENDIX A

Mandatory Supplemental General Conditions

For The

South Carolina State Revolving Fund Program

May 2018

Following is the standard language that must be incorporated into all solicitations for offers and bids for (1) construction contracts, (2) subcontracts in excess of \$2,000, (3) equipment, and (4) material to be funded by the Federally-assisted State Revolving Fund Program.

The requirements in these Supplemental General Conditions shall not relieve the participants in this project of responsibility to meet any requirements of other portions of this contract or of other agencies, whether any other requirements are more or less stringent. The requirements in these Supplemental General Conditions must be satisfied in order for work to be funded in the State Revolving Fund Program.

APPENDIX A
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General Instructions

Submittal and Approval of DBE and EEO Documentation

It is the policy of the State Revolving Loan Fund (SRF) to assure that:

- (a) Disadvantaged business enterprises (DBEs) have the opportunity to participate in a fair share of the funds awarded for contracts and subcontracts for supplies, construction, equipment or services; and
- (b) Discrimination in employment practices on the basis of race, color, religion, national origin, sex, age or handicap (referred to as Equal Employment Opportunity) is prohibited.

Compliance with these provisions IS REQUIRED in order for project costs to be eligible for SRF funding. Failure on the part of the tentatively selected bidder to submit required information may be grounds for rejecting the bid.

The Contractor must submit the following items to the Project Sponsor (Owner):

1. **DBE Compliance Documentation** listed on page 7 to include a “Bidder’s List” showing all bidders for any subcontracting opportunities. Documentation of DBE solicitation and results of such efforts must be submitted along with the following forms (See Attachment B) as part of the DBE package:
 - **“Prime Contractor’s Subagreement Certification” (DHEC 3591)** - This form provides a list of all proposed subcontractors, both DBE firms and non-DBE firms. Each prime contractor must submit this form.
 - **“DBE Program Subcontractor Utilization Form” (EPA Form 6100-4)** - This form captures the prime contractor’s intended use of an identified DBE subcontractor, and the estimated dollar amount of the subcontract.
 - **“DBE Subcontractor Performance Form” (EPA Form 6100-3)** - Each DBE subcontractor must submit this form which captures an intended DBE subcontractor’s description of the work to be performed for the prime contractor and the price of the work submitted to the prime contractor.

*The South Carolina Department of Health and Environmental Control (DHEC) cannot authorize the Project Sponsor (Owner) to award the construction contract(s) until the project’s “**good faith efforts**” (See page 6) are approved.*

2. **“EEO Documentation Form” (DHEC Form 2323)** and all required attachments (See Attachment B). Each prime contractor and any subcontractor whose contract amount exceeds \$10,000 must submit this information. *DHEC cannot authorize the Project Sponsor to award the construction contract(s) until the EEO documentation is approved.*

3. **“Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity” (DHEC 3592)** (See Attachment B). Each prime contractor and any subcontractor whose contract amount is expected to exceed \$10,000 must submit this form.
4. **“Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC Form 3590)** (See Attachment B). Each prime contractor and any subcontractor whose contract amount is expected to equal or exceed \$25,000 must submit this form.

The tentatively selected bidder is required to submit the above information in duplicate to the Project Sponsor after bid opening. As part of the bid package, the Project Sponsor must forward one copy of the information to DHEC at the address listed below.

During Construction, the Prime Contractor must submit the following items:

1. **A copy of each DBE subcontract.**
2. **“MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements” (EPA Form 5700-52A)** (See Attachment B). This report must be submitted semi-annually by April 15th and October 15th until the final draw has been processed for the project.
3. **Weekly Certified Payrolls** for each prime contractor and all subcontractors. **Payrolls should be submitted weekly with little lag time to the Project Sponsor.** Project Sponsors must retain payroll records for three years from the completion of the project.
4. **Notice of changes, substitutions or additions to the approved list of subcontractors. Any changes must be reported immediately to DHEC’s SRF Section and a revised DHEC Form 3591, and EPA 6100-4 must be submitted to the project’s SRF Project Manager as soon as practical. (See also “Reporting Requirements During Construction” on page 8.) Use of any unapproved subcontractor on the project may delay payment or result in costs associated with that subcontract declared ineligible for SRF assistance.**

The Project Sponsor must forward one copy of the above items **(except for item number 3, payroll records)** to the project’s SRF Project Manager:

**Brian Asbill, SRF Project Manager SRF Section,
Water Facilities Permitting Division
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201**

THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM IN THE STATE REVOLVING FUND PROGRAM

Objective

The objective of the State Revolving Fund (SRF) Program's DBE program is to ensure Project Sponsors and their prime contractors utilize certified DBEs as subcontractors to the fullest extent possible. Compliance with these provisions is required in order for the project costs to be eligible for SRF funding. Failure on the part of the prime contractor to submit required documentation and obtain DBE approval may be grounds for rejecting the bid or result in subcontractor costs declared ineligible for SRF assistance.

Policy

It is SRF policy to require the Project Sponsor to implement procedures to ensure DBE firms are given opportunities for meaningful participation if subcontracts are awarded. A fair share goal of

2.5% MBE and 2.5% WBE

of the funds awarded for prime contracts or subcontracts for supplies, construction, equipment or services, must be made available to organizations owned and controlled by socially and economically disadvantaged individuals, women, disabled Americans, historically black colleges and universities, and minority institutions. Prime contractors must include the fair share goal in their bid documents for subcontracts.

NOTE: The fair share goal is subject to change each fiscal year. Therefore, prior to bidding, it is the Project Sponsor's responsibility to check with the SRF Project Manager for the current fair share percentage to be included in bid documents.

DBE Definitions

A Disadvantaged Business Enterprise (DBE) is defined as a business that meets the criteria cited below:

Owned by socially disadvantaged individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities;

Owned by economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business who are not socially disadvantaged. An individual claiming disadvantaged status must have an initial and continued personal net worth of less than \$750,000.

For purposes of this definition, disadvantaged individuals include the following:

Black Americans
Women
Disabled Americans
Minority Institutions

Asian Americans
Hispanic Americans
Native Americans
Historically Black Colleges and Universities

To qualify as a DBE firm, at least 51 percent of an independent business must be owned and controlled by a socially and economically disadvantaged individual whose personal net worth is less than \$750,000. The minority or woman owner's interest must be real, substantial and continuing. The control determination will revolve around the minority or woman owner's involvement in the day-to-day management of the business enterprise.

DBE Certification

DHEC does not determine the DBE status of businesses. Instead, the SRF Program accepts certification of DBE status from other sources already established to make this determination, such as:

- ▶ South Carolina Department of Transportation
- ▶ South Carolina Governor's Office of Small & Minority Business Assistance
- ▶ South Carolina Minority Business Development Agency (MBDA) Business Center
- ▶ South Carolina Chamber of Commerce
- ▶ Other agencies or organizations that provide procurement assistance to DBEs if their definition of a DBE matches the criteria established above.

Note: See Attachment A for a listing of the addresses, telephone numbers and web addresses for the above referenced agencies.

DBE Requirements – "Six Good Faith Efforts"

Project Sponsors and their prime contractors must comply with the following "Six Good Faith Efforts" before a contract is awarded:

- (1) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (2) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, **posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.**
- (3) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will involve dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (4) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (5) Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce.
- (6) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (1) through (5) of this section.

The prime contractor must employ the “Six Good Faith Efforts” to subcontract with DBEs, even if the prime contractor has achieved his or her fair share objectives.

Solicitation of DBE Firms

Solicitation should allow adequate time for price analysis; as stated above, whenever possible, **contact should be made not later than 30 days before bid opening.** Efforts taken to comply with these requirements must be documented in detail.

Prime contractors must create and maintain a **Bidders List**. This list must include **all firms that bid or quote subcontracts including both MBE/WBEs and non-MBE/WBEs.** The Bidders List must be kept until the project period has ended. The following information must be obtained from all subcontractors:

- Subcontractor’s name with point of contact,
- Subcontractor’s mailing address, telephone number and e-mail address;
- The procurement (scope of work) on which the subcontractor bid or quoted and when; and
- The subcontractor’s status as a certified MBE, WBE, or non-MBE/WBE.

The prime contractor is **required** to use the services of the Minority Business Development Agency (MBDA). MBDA Business Centers are funded by the U.S. Department of Commerce to provide technical, financial and contracting assistance to minority and women’s business enterprises. These Centers are located in a number of Regional cities. Use of the services provided by these Centers does not absolve the prime contractors from pursuing additional efforts to comply with this requirement. See Attachment A for a listing of the address, telephone number and web address for the MBDA Business Center – Columbia SC as well as other resource agencies.

DBE Compliance Documentation

If subcontracts are awarded, prime contractors *must submit the following items* as documentation of their good faith efforts, **even if the prime contractor has achieved its fair share objectives:**

- (1) A copy of the prime contractor’s Bidder’s List.
- (2) Evidence of solicitation to *certified* prospective DBE firms, such as copies of solicitation letters/emails listing **specific scope/volume of work**, phone logs, fax confirmation sheets, printouts of online searches with results of said searches, etc. The prime contractor is strongly encouraged to follow-up each written, faxed or emailed solicitation with at least one logged phone call.
- (3) Copies of letters or e-mails asking for assistance from the MBDA Business Center – Columbia, SC, the South Carolina Governor’s Office of Small & Minority Business Assistance, or other agencies or organizations that provide procurement assistance to DBEs. **Note: As outlined in the “Good Faith Effort” Number 5 above, it is mandatory that prime contractors contact the SBA and the MBDA Business Center.**

- (4) List by trade the names of *certified* DBE subcontractors solicited but not selected, including name, address, telephone number, contact person, date of contact, and outcome of contact, including dollar amount of quote.
- (5) List any job-specific criteria that disqualified a certified DBE firm that submitted a low bid for a subcontract. Attach a copy of the disqualified bid or quote along with the bid or quote from the selected subcontractor for comparison.
- (6) Proof of **DBE certification** from an acceptable source for each subcontractor listed as a MBE or WBE.
- (7) DHEC form entitled “Prime Contractor’s Subagreement Certification” (DHEC Form 3591) (See Attachment B) listing **all** proposed subcontractors, both DBE firms and non-DBE firms.
- (8) EPA Form 6100-4 “DBE Subcontractor Utilization Form” (See Attachment B) listing all proposed DBE subcontractors.
- (9) Require all DBE subcontractors to complete EPA Form 6100-3, “DBE Subcontractor Performance Form” (See Attachment B) This form captures an intended DBE subcontractor’s description of work to be performed for the prime contractor and the price of the work submitted to the prime contractor.

Reporting Requirements for Prime Contractors During Construction

- ▶ Forward a copy of each DBE subcontract as soon as possible after contract award.
- ▶ Pay subcontractors for satisfactory performance no more than **30 days** from the prime contractor’s receipt of payment.
- ▶ Report any proposed changes/additions from the approved subcontractor list to the Project Sponsor and DHEC **prior to initiation of the action** along with the following actions:
 - Submit a **revised/updated** “Prime Contractor’s Subagreement Certification” (DHEC Form 3591) and EPA Form 6100-4 (See Attachment B).
 - Document the reason for the proposed deviation
 - Submit evidence of the prime contractor’s continued good faith efforts to secure a DBE firm for the new and/or replacement subcontract work.
 - Provide any new subcontractors with the “DBE Subcontractor Performance Form” (EPA Form 6100-3) (See Attachment B) **if** work is subcontracted to a **new** DBE firm.
 - Submit a “EEO Documentation Form” (DHEC Form 2323) (See Attachment B) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - Submit a “Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity” (DHEC 3592) (See Attachment) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - Submit a “Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC 3590) (See Attachment B) from the **new** subcontractor **if** the subcontract amount equals or exceeds \$25,000.

Use of any unapproved subcontractor on the project may delay loan draw requests or result in costs associated with that subcontract declared ineligible for SRF assistance.

- ▶ Submittal of the data for “MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements” (EPA Form 5700-52A) to the Project Sponsor. The reporting period is semiannual, with reporting periods ending March 31st and September 30th. Submission of this report is required even if there is no MBE/WBE activity to report; this is called a Negative Report.
- ▶ Provide EPA Form 6100-2, “DBE Subcontractor Participation Form”, to all DBE subcontractors. This form gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and other concerns the DBE subcontractor might have. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to: EPA DBE Coordinator, EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303.

SPECIAL NOTICE TO BIDDERS

Number 1: The State Revolving Fund Program requires the Equal Employment Opportunity (EEO) commitment of the prime contractor and all subcontractors with a contract in excess of \$10,000 to the requirements of Executive Order 11246. EEO Affirmative Action is mandated throughout the duration of the contract.

The tentatively selected bidder is required to submit the EEO documentation as outlined in the “General Instructions” of these Supplemental General Conditions.

Failure to submit the EEO documentation may subject the contractor to sanctions under Executive Order 11246.

Number 2: By the submission of this bid, each bidder acknowledges that he understands and agrees to be bound by the equal opportunity requirements of EPA regulations (40 CFR Part 8, particularly Section 8.4(b)), which shall be applicable throughout the performance of work under any contract awarded pursuant to this solicitation. Each bidder agrees that if awarded a contract, it will similarly bind contractually each subcontractor. In implementation of the foregoing policies, each bidder further understands and agrees that if awarded a contract, it must engage in affirmative action directed at promoting and ensuring equal employment opportunity in the workforce used under the contract. The bidder understands and agrees that “affirmative action” as used herein shall constitute a good faith effort to achieve and maintain minority employment in each trade in the on-site workforce used on the project.

Number 3: The successful bidder is required to certify that they are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participating in a contract using federal funds. In turn, prime contractors will require subcontractors whose contract amount is expected to equal or exceed \$25,000 to also submit such certification using the “Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC Form 3590) (See Attachment B).

Number 4: Bonding requirements are as follows:

- (a) Bid guarantee equivalent to five percent of the bid price. The bid guarantee shall be in the form of a certified check or bid bond.
- (b) Performance bond equal to 100 percent of the contract price; and
- (c) Payment bond equal to 100 percent of the contract price.

Bonds must be obtained from companies holding Certificates of Authority as acceptable sureties, issued by the U.S. Treasury.

Number 5: The Project Sponsor and contractors must follow the flood hazard area requirements of the Flood Disaster Protection Act of 1973 contained in 40 CFR Part 30.

Number 6: Fire and Extended Coverage Insurance (Builder's Risk):

- (a) The Contractor shall maintain, as applicable, in an Insurance Company or Insurance Companies acceptable to the Project Sponsor, Fire, Extended Coverage and Vandalism and Malicious Mischief Insurance on buildings and structures, while in the course of construction, including foundations, additions, attachments and all permanent fixtures belonging to and constituting a part of said buildings or structures. The policy or policies shall also cover machinery if the cost of machinery is included in the contract. The amount of insurance must at all times be at least equal to the actual cash value of the insured property. The policy shall be in the name of the Project Sponsor and the Contractor, as their interests may appear, and shall also cover the interests of all subcontractors performing work.
- (b) The Contractor shall provide the Project Sponsor with satisfactory evidence certifying that the foregoing insurance is in force; and such evidence shall include provisions that the insurance shall not be cancelled, allowed to expire or be materially changed without giving the Project Sponsor advance notice by registered mail.
- (c) Cancellation and Re-Insurance: If any insurance should be cancelled or changed by the insurance company or should any insurance expire during the period of this Contract, the Contractor shall be responsible for securing other acceptable insurance to provide the coverage specified in this section to maintain continuous coverage during the life of this Contract.

Number 7: Use of American Iron and Steel

The Contractor acknowledges to and for the benefit of the Project Sponsor and the State Revolving Fund (SRF) Program that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Project Sponsor and the SRF Program that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Project Sponsor or the SRF Program. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Project Sponsor or the SRF Program to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Project Sponsor or the SRF Program resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF Program or any damages owed to the SRF Program by the Project Sponsor). While the Contractor has no direct contractual privity with the SRF Program, as a lender to the Project Sponsor for the funding of its project, the Project Sponsor and the Contractor agree that the SRF Program is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the SRF Program.

The proposed prime contractor(s) must certify American Iron and Steel compliance using DHEC Form 2556.

DAVIS-BACON AND RELATED ACTS
WAGE RATE REQUIREMENTS FOR FEDERAL AND
FEDERALLY ASSISTED CONTRACTS

Wage Rate Requirements

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, ~~below~~ [available upon request], shall apply. Although EPA and the State remain responsible for ensuring subrecipients' compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), ~~below~~ and for compliance as described in Section II-5.

I. Requirements Under The Consolidated Appropriations Act, 2017 (P.L. 115-31), and Under The Water Resources Reform and Development Act of 2014 (WRRDA) For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact, Sheryl Parsons, parsons.sheryl@epa.gov, 404-562-9337 of EPA, Region 4 for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening)

for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor www.wdol.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the Consolidated Appropriations Act, 2017, or WRRDA, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or

incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Sub recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding.

The sub recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each

covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5

(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5

(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these

clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub recipient shall periodically review contractors and subcontractor's use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.

"General Decision Number: SC20200049 01/03/2020

Superseded General Decision Number: SC20190049

State: South Carolina

Construction Type: Heavy

Counties: Berkeley and Dorchester Counties in South Carolina.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020

* IRON0848-001 01/01/2019

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.69	12.90

PLUM0421-005 07/01/2018

	Rates	Fringes
PIPEFITTER.....	\$ 28.00	12.01

SUSC2011-047 11/02/2011

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 14.85	0.00
LABORER: Common or General.....	\$ 11.64	2.53
LABORER: Pipelayer.....	\$ 12.55	1.82
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 15.54	2.20
OPERATOR: Grader/Blade.....	\$ 20.11	1.39
OPERATOR: Loader.....	\$ 10.50	1.98
TRUCK DRIVER.....	\$ 15.65	2.79

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local),

a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor

200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

"

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO
ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**

EEO Notice

Following is the standard language which must be incorporated into all solicitations for offers and bids on all Federal and Federally-assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" which is included in the Nondiscrimination Provision and Labor Standards, and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	See below for county list	6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minority and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

Minority Goals by Economic Areas for Standard Metropolitan Statistical Area (SMSA) or Non-SMSA

029 Charlotte, NC:

SMSA Counties:

1520 Charlotte – Gastonia, NC _____ 18.5%
NC Gaston; NC Mecklenburg; NC Union.

Non-SMSA Counties _____ 15.7%

NC Alexander; NC Anson; NC Burke; NC Cabarrus; NC Caldwell; NC Catawba; NC Cleveland; NC Iredell; NC Lincoln; NC Rowan; NC Rutherford; NC Stanley; SC Chester; SC Lancaster SC York.

31 Greenville – Spartanburg, SC:

SMSA Counties:

3160 Greenville –Spartanburg, SC _____ 16.0%
SC Greenville; SC Pickens; SC Spartanburg.

Non-SMSA Counties _____ 17.8%

NC Polk; SC Abbeville; SC Anderson; SC Cherokee; SC Greenwood; SC Laurens;
SC Oconee; SC Union.

32 Columbia, SC

SMSA Counties:

1760 Columbia, SC _____ 23.4%
SC Lexington; SC Richland.

Non-SMSA Counties _____ 32.0%

SC Calhoun SC Clarendon; SC Fairfield; SC Kershaw; SC Lee; SC Newberry;
SC Orangeburg; SC Saluda; SC Sumter

033 Florence, SC

Non-SMSA Counties _____ 33.0%

SC Chesterfield; SC Darlington; SC Dillon; SC Florence; SC Georgetown; SC Horry;
SC Marion; SC Marlboro; SC Williamsburg.

34 Charleston - North Charleston, SC

SMSA Counties

1440 Charleston - North Charleston, SC _____ 30.0%
SC Berkeley; SC Charleston; SC Dorchester.

Non-SMSA Counties _____ 30.7%

SC Colleton

35 Augusta, GA:

SMSA Counties:

0600 Augusta, GA – SC _____ 27.2%
GA Columbia; GA Richmond; SC Aiken

Non-SMSA Counties _____ 32.8%

GA Burke; GA Emanuel; GA Glascock; GA Jefferson; GA Jenkins; GA Lincoln;
GA McDuffie; GA Taliaferro; GA Warren; GA Wilkes; SC Allendale, SC Bamberg;
SC Barnwell; SC Edgefield; SC McCormick

039 Savannah, GA:

SMSA Counties:

7520 Savannah, GA _____ 30.6%
GA Bryan; GA Chatham; GA Effingham

Non-SMSA Counties _____ 29.8%

GA Appling; GA Atkinson; GA Bacon; GA Bullock; GA Candler; GA Coffee; GA Evans; GA Jeff Davis; GA Liberty; GA Long; GA McIntosh; GA Montgomery; GA Screven; GA Tattinall; GA Toombs; GA Wayne; SC Beaufort; SC Hampton; SC Jasper.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

EEO Specifications

Following is the standard language which must be incorporated into all solicitations for offers and bids on all Federal and Federally-assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 1. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 3. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 4. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications and Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to

community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.

- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work on any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the

Contractor. The obligation to comply; however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the "Equal Opportunity Clause", including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof, as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, Social Security Number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be constructed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

APPENDIX A ATTACHMENT A

Contacts for Procurement of DBEs

Minority Business Development Agency
(MBDA) Business Center – Columbia SC
1515 Richland Street
Columbia, SC 29201
Office: (803) 743-1154
Fax: (803) 743-1162
Email: busdev@columbiambdacenter.com
Website: <http://columbiambdacenter.com/>

Office of Small & Minority Business Assistance
South Carolina Office of the Governor
1205 Pendleton Street, Suite 474
Columbia, SC 29201
Telephone: (803) 734-5010
Website: www.govoep.state.sc.us/osmba

South Carolina Chamber of Commerce
1201 Main Street, Suite 1700
Columbia, SC 29201
Telephone: (803) 799-4601
Website: www.scmminoritybusiness.net

South Carolina Department of Transportation
Office of Business Development & Special Programs
Post Office Box 191
Columbia, SC 29202
Telephone: (803) 737-1372
Website: <http://www.scdot.org/doing/businessDevelop.aspx>



Project Sponsor: Berkeley County Water & Sanitation
Project Name: Mount Holly Commerce Park
Improvements Phase 1
SRF Project Number: 496-19

STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
EEO DOCUMENTATION FORM

| Proposed Prime Contractor or Subcontractor: _____
Address: _____

Telephone Number: _____

| Fill out and attach "Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity" (DHEC Form 3592).

| Attach a copy of the Employer Information Report EEO-1 (also known as Standard Form 100) if the firm meets the criteria outlined on page 4 of this form. N/A _____ (Check N/A if the firm does not meet the EEO-1 Report criteria.)

| a. Name of company official responsible for EEO: _____

b. Attach a copy of the contractor's Affirmative Action Plan.

| a. List current construction contracts, with dollar amount:

_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

b. List contracting federal agencies, if applicable:

| Detail the sex and race/ethnic composition of the company's workforce, temporary and permanent, by job category. List statistics by percent or number.

<u>Job</u> <u>Category</u>	<u>Male</u>	<u>Female</u>	<u>African</u> <u>American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native</u> <u>American</u>	<u>White</u>
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

Number of Disabled: _____

- | Check applicable employment sources:

Newspaper Advertisement _____
Job Service _____
Walk-In Applications _____
Employee Referrals _____

Trade Schools _____
Trade Associations _____
Other: _____

- | List anticipated employment needs for this project, indicating percentage or number of female/minority participation in each trade:

<u>Trade</u>	<u>Female</u>	<u>African American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native American</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

OR Check Yes _____ if you plan to only use your existing workforce.

- | **Prime Contractors Only:** Fill out and attach “Prime Contractor’s Subagreement Certification” (DHEC Form 3591).

- | Contract Price: \$_____.

- | Duration of Contract:_____.

- | **All Prime Contractors and Any Subcontractors** whose subcontract equals or exceeds \$25,000: Fill out and attach “Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC Form 3590).

Signature of Authorized Official

Print Name and Title of Authorized Official

Date

Submit to:

SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201

DHEC 2323 (9/2008)

INSTRUCTIONS FOR COMPLETING THE EEO DOCUMENTATION FORM DHEC 2323

The purpose of the EEO Documentation Form is to document compliance with the Equal Employment Opportunity (EEO) requirements which prohibit discrimination in employment practices on the basis of race, color, religion, national origin, sex, age or handicap. The affirmative action program is designed to enhance hiring, training, and promotion opportunities for minorities and women and is governed by Executive Order 11246.

This form must be completed by each prime contractor and any subcontractor whose contract amount exceeds \$10,000.

Please provide the name of the Project Sponsor, project name and State Revolving Fund (SRF) project number. Please answer each question and submit the requested attachments with this form.

DHEC Review and Filing. The Bureau of Water will use the above referenced form to document each prime contractor and subcontractor's compliance with the EEO requirements. The form will be kept in the SRF DBE/EEO file of the project name listed on the form. The EEO Designation Form will be retained on file with the Bureau of Water for twenty years.

Employer Information Report EEO-1

Under the direction of the U. S. Equal Employment Opportunity Commission, the Joint Reporting Committee (JRC) is responsible for the full-length, multi-phase processing of employment statistics collected on the Employer Information Report EEO-1. This report, also known as Standard Form 100, details the sex and race/ethnic composition of an employer's work force by job category.

The Employer Information EEO-1 survey is conducted annually under the authority of Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. All employers with 15 or more employees are covered by Public Law 88-352 and are required to keep employment records as specified by Commission regulations. Based on the number of employees and federal contract activities, certain large employers are required to file an EEO-1 Report on an annual basis.

The EEO-1 Report must be filed by:

- (A) All private employers who are: (1) subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private membership clubs other than labor organizations; OR (2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.
- (B) **All federal contractors (private employers)** who: (1) are not exempt as provided for by 41 CFR 60-1.5; (2) have 50 or more employees, **and** (a) are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or (b) serve as depository of Government funds in any amount; or (c) is a financial institution which is an issuing and paying agent for U. S. Savings Bonds and Notes.

When filing for the EEO-1 Report for the first time, go to the web site at: <http://www.eeoc.gov/eeo1survey> and select "Filing for the first time" from the information box. Fill out the electronic questionnaire to enter your company into the JRC system. Once you have completed the registration process, you will be contacted on how to proceed with the EEO-1 Report. **If you have previously registered with the JRC**, follow their instructions to update your information.



Bidder's "American Iron And Steel" Certification

SRF Project Number: 496-19

Project Name: Mount Holly Commerce Park Improvements Phase 1

Project Sponsor: Berkeley County Water & Sanitation

With respect to the "American Iron and Steel" (AIS) provisions of the Consolidated Appropriations Act, 2014 under Section 436, I understand the AIS Requirement and that this requirement applies to any and all portions of the project, including subcontracted portions; and I certify to the best of my knowledge and belief that:

1. Identification of American Iron and Steel: Consistent with the terms of the Project Sponsor's bid solicitation and the AIS provisions, the bidder certifies that this bid reflects the bidder's best, good faith effort to identify domestic sources of iron and steel for every covered product contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.
2. Verification of U.S. Production: The bidder certifies that all covered products contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the bidder agrees that it will provide reasonable, sufficient, and timely verification to the Project Sponsor of the U.S. production of each component so identified.
3. Documentation Regarding Non-American Iron and Steel: The bidder certifies that for any product or products that are not American-made and are so identified in this bid, the bidder has included in or attached to this certification one or both of the following, as applicable:
 - a. Identification of and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such product or products, and an analysis that supports its applicability to the product or products;
 - b. Verifiable documentation sufficient to the Project Sponsor, as required in the bid solicitation or otherwise, that the bidder has sought to secure American-made products but has determined that such products are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the bidder under the applicable conditions stated in the bid solicitation or otherwise.
4. Information and Detailed Justification Regarding Non-American-made Iron and Steel: The bidder certifies that for any such product or products that are not so available, the bidder has also provided in or attached to this certification, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-made product or products, that the bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for an AIS waiver with respect to such product or products. The bidder further agrees that, if this bid is accepted, it will assist the Project Sponsor in amending, supplementing, or further supporting such information as required by the Project Sponsor to request and, as applicable, implement the terms of a waiver with respect to any such product or products.

I understand that a false statement on this certification may be grounds for rejection or termination of any award.

Signature of Bidder

Date

Typed Name and Title of Bidder

Name of Bidder's company

Bidder's Address

Bidder's Telephone Number

INSTRUCTIONS FOR COMPLETING BIDDER'S "AMERICAN IRON AND STEEL" CERTIFICATION

PURPOSE: The purpose of the *Bidder's "American Iron and Steel" Certification* is to certify that, as required by Section 436 of the Consolidated Appropriations Act, 2014, all of the iron and steel products used in the referenced State Revolving Fund (SRF) project are produced in the United States unless a waiver is granted by the U.S. Environmental Protection Agency.

GENERAL INFORMATION: "Iron and steel" products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precise concrete and construction materials. Additional information, including any published waivers, is posted on the EPA Website, http://water.epa.gov/grants_funding/aisrequirement.cfm.

All firms bidding on SRF projects funded after January 17, 2014 and prior to October 1, 2014 must complete this form, unless complete plans and specifications were approved by January 17, 2014.

INSTRUCTIONS: Provide the project name, SRF project number, and project sponsor name (utility, town, etc).

Certify compliance with "American Iron and Steel" Provisions by signing the form. Include the date, typed name and title of the bidder, name of bidder's company, bidder's address and bidder's telephone number.

DHEC REVIEW AND FILING: The Bureau of Water will use the above referenced form to document bidder compliance with AIS. The form will be kept in the SRF Bidding file of the project name listed on the form. Under retention schedule 15795 the *Bidder's "American Iron and Steel" Certification* will be retained on file with the Bureau of Water for three years following project completion.



Sponsor: Berkeley County Water & Sanitation

Project Name: Mount Holly Commerce Park

Improvements Phase 1

SRF Project No.: 496-19

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS**

The prospective participant 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 of 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 government 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 application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 U.S.C. Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Name of Prospective Participant (Town, Utility, Contractor, Subcontractor, Supplier etc.)

Printed Name and Title of Authorized Official

Signature of Authorized Official

Date

_____ I am unable to certify to the above statements. Attached is my explanation.

Submit to:

SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201

**INSTRUCTIONS FOR COMPLETING
CERTIFICATION REGARDING DEBARMENT
SUSPENSION AND OTHER RESPONSIBILITY MATTERS
DHEC FORM 3590**

The purpose of the Certification Regarding Debarment, Suspension And Other Responsibility Matters form is to certify that potential participants are not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 “Debarment and Suspension.”

- This form is to be filled out by prospective participants in the State Revolving Loan fund program, including towns, public utilities, contractors, and subcontractors.
- Fill in the project sponsor’s name, project name and SRF project number.
- Fill in the potential participants name and name of authorized official for the participant. Sign and date the form to certify that the potential participant is not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 “Debarment and Suspension,” or, provide an explanation why the potential participant cannot.
- Where/when to submit:
 - A prospective loan recipient (Sponsor) must return the signed certification, or explanation, with the preliminary engineering report to *SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201*.
 - A prospective prime contractor must submit a completed certification, or explanation, to the entity awarding the contract (Sponsor).
 - A prospective subcontractor must submit a completed certification, or explanation, to the (prospective) prime contractor for the project.
 - See also, SRF guidance documents.

DHEC Review and Filing: The Bureau of Water will use this form to document compliance with Executive Order 12549. The form will be retained in the SRF project record for three years following the final disbursement to the project from the SC Budget and Control Board.



**STATE OF SOUTH CAROLINA
STATE REVOLVING FUND (SRF) PROGRAM
PRIME CONTRACTOR'S SUBAGREEMENT CERTIFICATION**

Project Name: Mount Holly Commerce Park
Improvements Phase 1

Project Number: SRF 496-19

Contractor's Name:

Contractor's Telephone Number:

Contractor's Address:

City:

State:

Zip Code:

SECTION I - INSTRUCTIONS

All prime contractors are required to certify whether or not they plan to utilize subcontractors for any portion of work throughout the life of their contract.

SECTION II - CERTIFICATION

I, as the authorized representative of the above named contracting firm, certify that we:

Plan to subcontract a portion of this project and will submit to SCDHEC evidence of the positive steps taken to utilize minority and women's businesses as required by Executive Order 11246 prior to entering into any subagreement. We agree to submit MBE/WBE utilization reports (U.S. EPA Form 5700-52A). (Please list each tentative subcontractor on Page 2 of this form.)

Do not elect to subcontract any portion of this project. We understand that should we elect, at a later date, to subcontract a portion of this project, we will be required to provide evidence of the positive steps taken to utilize minority and women-owned businesses as required by Executive Order 11246 prior to entering into any subagreement. Failure to do so may result in costs associated with that subagreement declared ineligible for SRF assistance.

Name:

Signature:

Date: (MM/DD/YYYY)

Title:

Please list all tentative subcontractors you plan to use for this project, identifying whether or not they are a minority business enterprise (MBE) or a women-owned business enterprise (WBE). If more space is needed, please attach an additional sheet using the same format as below.

1. Type of Work:

Subcontractor's Name:

Subcontractor's Address:

City:

State :

Zip Code:

Contact Person:

Contact's Telephone Number:

Subcontract Amount:

Duration of Subcontract:

Check all that apply:

MBE (Minority Business Enterprise)

WBE (Women-owned Business Enterprise)

2. Type of Work:

Subcontractor's Name:

Subcontractor's Address:

City:

State:

Zip Code:

Contact Person:

Contact's Telephone Number:

Subcontract Amount:

Duration of Subcontract:

Check all that apply:

MBE (Minority Business Enterprise)

WBE (Women-owned Business Enterprise)

3. Type of Work:

Subcontractor's Name:

Subcontractor's Address:

City:

State:

Zip Code:

Contact Person:

Contact's Telephone Number:

Subcontract Amount:

Duration of Subcontract:

Check all that apply:

MBE (Minority Business Enterprise)

WBE (Women-owned Business Enterprise)

4. Type of Work:

Subcontractor's Name:

Subcontractor's Address:

City:

State:

Zip Code:

Contact Person:

Contact's Telephone Number:

Subcontract Amount:

Duration of Subcontract:

Check all that apply:

MBE (Minority Business Enterprise)

WBE (Women-owned Business Enterprise)

List of subcontract work yet to be committed with approximate price and duration of subcontract.

Work	Approximate Price	Duration
1.		
2.		
3.		
4.		

Submit to: SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201



Name of Prime Contractor: _____

Project No.: _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF)
PROGRAM CERTIFICATION BY PROPOSED PRIME OR
SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT
OPPORTUNITY**

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246, Part II, Section 203 (b), (30 F.R. 12319-25). Any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicated that the prime or subcontractor has not filed a compliance report due under applicable instruction, such contractor shall be required to submit a compliance report.

CONTRACTOR'S CERTIFICATION

Contractor's Name: _____

Address: _____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. Yes _____ No _____
2. Compliance Reports were required to be filed in connection with such contract or subcontract. Yes _____ No _____
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100. Yes _____ No _____
4. If answer to item 3 is NO, please explain in detail on reverse side of this certification.

Certification – The information above is true and complete to the best of my knowledge and belief. (A willfully false statement is punishable by law – U.S. Code, Title 18, Section 1001).

Name and Title of Signer (Please Type)

Signature

Date

Submit to:

SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201