

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
)
)
IN THE MATTER OF: BID PROTEST)
)
LANGSTON CONSTRUCTION CO.)
OF PIEDMONT, LLC)
)
v.)
)
SPARTANBURG COMMUNITY)
COLLEGE)
)
SPARTANBURG-TRB FRONT OFFICE)
PHASE 1 MODULAR OFFICE/WALL)
SYSTEM)
PROJECT H59-N518-JM)
_____)

BEFORE THE CHIEF PROCUREMENT
OFFICER FOR CONSTRUCTION

DECISION

CASE NO. 2009-020

POSTING DATE:
AUGUST 7, 2009

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from Langston Construction Co. of Piedmont, LLC., under the provisions of section 11-35-4210 of the South Carolina Consolidated Procurement Code, for an administrative review of the Spartanburg-TRB Front Office Phase 1 Modular Office/Wall System bid ("the Project"), for Spartanburg Community College (SCC). Langston protests SCC's posting of a Notice of Intent to Award a contract for the project to Krueger International (KI).

On July 28, 2009, pursuant to S.C. Code Ann. §11-35-4210(4), the CPOC conducted an administrative review by hearing. At the hearing, attorney Daniel Patterson represented Langston, Mr. Jeff Strack represented KI, and Mr. Ray Switzer represented SCC. During the hearing, the CPO received Exhibits 1 through 8 into evidence, heard oral arguments, and took testimony from all parties. This decision is based on the evidence and testimony presented at the hearing and applicable law.

NATURE OF THE PROTEST

The letter of protest is attached and incorporated herein by reference. [Ex. A]

FINDINGS OF FACT

1. On May 25, 2009, SCC issued an Invitation for Construction Bids.¹ [Ex. B]
2. The bid documents sought bids to provide, install, and, as necessary, electrically wire ceiling height, moveable modular wall panels with and without doors, windows, and electrical outlets. [See plans and specifications Ex. C]
2. The bid documents required bidders to list their subcontractor for performance of electrical work.
3. On June 18, 2009, SCC opened bids received from Langston, KI, and Bonitz Contracting Co., Inc. KI was the apparent low bidder and Langston was the apparent second low bidder. [See Bid Tabulation, Hearing Exhibit 3]
4. KI listed T&G Electric on its bid as the electrical Subcontractor. [See KI's bid, Hearing Exhibit 1]
5. On June 19, 2009, SCC posted a notice of intent to award a contract to KI. [Hearing Ex. 4]
6. On June 25, 2009, Langston delivered its protest to the CPOC via email.
7. Installation of ceiling height, moveable modular wall panels is subject to the requirements of the 2006 International Building Code (IBC).² *See §105 of the IBC.*

¹ South Carolina applies the predominate factor test to determine if a transaction involving both goods and services is a transaction for the sale of goods or one for construction. *See Plantation Shutter Co., Inc. v. Ezell*, 328 S.C. 475, 492 S.E.2d 404 (S.C.App. 1997); *Kline Iron and Steel Co., Inc. v. Gray Communications Consultants, Inc.*, 715 F. Supp 135(S.C. Dist. 1989). A pre-procurement analysis of this procurement under this test would have clearly shown that the predominate factor here is the purchase of manufactured goods not construction. In other words, it would have been more appropriate to conduct this procurement under the provisions of Article 5 of the Consolidated Procurement Code, not Article 9. Such an approach would have significantly changed the solicitation documents and lowered the cost to the state. For instance, there would have been no requirement for subcontractor listing, builder's risk insurance, performance and payment bonds, etc.

² Pursuant to SC Code Ann § 10-1-180, the Office of the State Engineer has adopted the 2006 IBC as the building code applicable to State facilities. Pursuant to SC Code Ann § 6-9-5 et seq., the South Carolina Building Codes Council has adopted the 2006 IBC for use by local jurisdictions.

DISCUSSION

RESPONSIVENESS

At the hearing, Langston raised for the first time the argument that KI's bid was not responsive because KI failed to list a contractor's license number for itself and failed to list a commercial electrical contractor's license number for its electrical subcontractor. "A protest ... must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided." *SC Code Ann § 11-35-4210(2)(b)*. While the specificity of a protest is not to be judged on highly technical or formal standards, the protest must "alert the parties to the general nature of the grounds for protest." *Protest of Sterile Services Corporation, Case No. 1983-17*. The CPOC finds that Langston's letter of protest was not sufficient to alert SCC, KI, or the CPOC of these additional issues. Because Langston raised these issues more than 15 days after the posting of Notice of Intent to Award, the CPOC may not consider them.³ See *SC Code Ann 11-35-4210(2)(b)*.

RESPONSIBILITY

In its letter of protest, Langston alleges that KI is not a responsible bidder as a matter of law. A determination of responsibility is required by S.C. Code Ann. § 11-35-1810, which states the "[r]esponsibility of the bidder or offeror shall be ascertained for each contract let by the State." A procurement officer's determination of responsibility is final and conclusive unless it is "clearly erroneous, arbitrary, capricious, or contrary to law." See *S.C. Code Ann. § 11-35-2410(A)*. The protestant has the burden of proving that the procurement officer's determination is "clearly erroneous, arbitrary, capricious, or contrary to law." See *Protest of Brantley Construction Co., Inc., Case No. 1999-3*.

Legal Ability of KI to Perform

In the letter of protest, Langston alleges that KI is not a licensed contractor as required by the Contractors Licensing Act (Act) found at Chapter 11, Title 40 of the South Carolina Code of Laws, as amended. For State procurement, the possession of a contractor's license required by

³ Even if the CPOC addressed these additional issues, these issues are minor informalities under SC Code Ann § 11-35-1520(13) and not a basis for rejecting a bid.

the Act is an issue of responsibility. See *Protest of Burkwood Construction Company, Inc., Case No. 1997-8*; *Protest of Roofco, Inc., Case No. 2000-14(I)*. A vendor that does not possess a required contractor's license does not have the legal ability to perform the work and may not be awarded a contract. *S.C. Code Ann. § 11-35-1520(10)* and *S.C. Code Ann. Regs. 19-445.2125(A)(4) & (D)*.

At the hearing, Langston expounded its position arguing that providing and installing moveable modular wall panels constitutes general contracting in excess of \$5,000 and that installation of these panels fell under the general contractor's - specialty license subclassification of interior renovation. Section 30 of the Act provides as follows:

No entity or individual may practice as a contractor by performing or offering to perform **contracting work** for which the total cost of construction is **greater than five thousand dollars** for **general contracting** ... **without a license** issued in accordance with this chapter. [emphasis added]

Moreover, the interior renovation subclassification of a general contractor - specialty license covers the following work:

[I]nstalling, remodeling, renovations, and finishes of acoustical ceiling systems and panels, load-bearing and nonload-bearing drywall partitions, lathing and plastering, flooring (excluding carpet) and finishing, interior recreational surfaces, **window and door** installation, and installation of fixtures, cabinets, and millwork; and which also includes fireproofing, insulation, lining, painting, **partitions**, sandblasting, interior wall covering, and waterproofing. This subclassification does not include alterations to load-bearing portions of a structure. [emphasis added] *SC Code Ann § 40-11-410(4)(c)*.

Langston argued for the coverage of this subclassification because KI's panels, upon installation, become partitions and some of the panels contain windows or doors. Langston also argued that upon installation, the panels become fixtures to the real property. In response to Langston's arguments, KI did not deny that it does not possess a contractor's license. However, KI argued that the installation of moveable modular wall panels does not improve real property and therefore is not "contracting work" as envisioned by the interior renovation subclassification or any other provision of the Act.

The scope of the interior renovation subclassification cannot be read in isolation from the rest of the Act and is necessarily limited by the scope of the terms "contracting work" and "general contracting" found in SC Code Ann § 40-11-30. The Act does not define the terms "contracting

work,” or “general contracting” used in Section 30. However, the Act does define a general contractor as “an entity which performs or supervises or offers to perform or supervise general construction.” *SC Code Ann § 40-11-20(9)*. The Act also defines a licensed contractor as “an entity that is licensed by the South Carolina Contractor's Licensing Board to engage in general ... contracting within the State.” *SC Code Ann § 40-11-20(13)*. Finally, the Act uses the term “general construction” in Sections 300(B), 360(B), 370(A), and 390 in association with the requirement to possess a contractor’s license. Therefore, by reading the Act as a whole, one must conclude that “general contracting” is the act of performing or offering to perform general construction. The Act defines general construction as “the installation, replacement, or repair of a building, structure, highway, sewer, grading, asphalt or concrete paving, or **improvement of any kind to real property.**” [emphasis added] *SC Code Ann § 40-11-20(8)*. Reducing this definition to its bare essence, it appears that general construction is the act of improving or offering to improve real property. Therefore the interior renovation subclassification only applies to partition, window, or door installations that constitute an improvement to real property. This interpretation is consistent with the exemptions provision of the Act which exempts “[t]he installation of finished products, materials, or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. *SC Code Ann § 40-11-360*. In essence, KI is arguing that their product is a finished product that is not fabricated into the structure and does not become a permanent fixed part of the structure and is not a partition as contemplated by the Act.

KI panels are moveable goods at the time they are identified to the contract and as such are chattels.⁴ However, these same wall panels can become fixtures by physically annexing them to a building. *Carson v. Living Word Outreach Ministries, Inc.*, 315 SC 64, 431 SE2d 615 (Ct. App. 1993); *Carjow, LLC v. Simmons*, 349 S.C. 514, 563 S.E.2d 359 (Ct. App. 2002). In determining whether an article is a fixture one must consider factors such as whether the item is attached in such a manner that its removal will damage the building (e.g. screw holes in a floor, wall, or ceiling); whether the character of the article is such that it is normally considered to be a part of the real property (e.g. pews in a church or wall cabinets in a kitchen); and whether the annexing party intended the article to become a fixture. *Hyman v. Wellman Enters.*, 337 SC 80, 522 SE2d 150 (Ct. App. 1999); *Carson*; and *Carjow*.

⁴ Chattel is defined as "An article of personal, movable property." American Heritage Dictionary (3d ed. 1994).

In support of its contention that KI panels do not become fixtures and therefore installing KI panels is not general construction, KI presented testimony and documentation that the panels do not permanently attach to the real property. From this testimony and documentation, it is clear the panels do not attach to the underlying floor or adjoining stud walls in any way. No screws or bolts are used to attach the panels to the building structure. When the panels are removed, there is no damage to the structure. Horizontal stability is imparted to the walls through the use of a simple clip that slips on to the ceiling grid (the thin metal strips that support suspended ceiling tiles and lay-in light fixtures) and is then tightened. Nothing is drilled into or screwed into the ceiling grid. When a clip is removed, there is no damage to the ceiling grid. On the other hand, testimony also made it clear that some of the panels to be supplied by KI will come with integral electrical wiring that an electrician must hardwire into the building's electrical system by splicing the wire in a junction box. However, the totality of the factors presented by KI suggest that using the factors traditionally used by the courts, the moveable modular wall panels will not become fixtures.

The Contractors' Licensing Board (Board) is the state authority primarily responsible for interpreting and enforcing the provisions of the Act. By long standing agreement, the Board Staff provides the CPOC with advisory opinions concerning the Board's interpretation of the Act. The CPOC traditionally gives great weight to the opinion of the Board Staff. While the greater weight of authority regarding fixtures may suggest that moveable panels of the type manufactured by KI do not become fixtures once installed, the Board's staff has advised the CPOC that they believe such panels do become fixtures regardless of whether or not they are electrically wired into the building. The Board staff has further advised the CPOC that installation of these panels is regulated work requiring possession of a general contractor's license with an interior renovation subclassification.

The Board staff has adopted the position that installation of ceiling height, moveable modular wall panels constitutes construction as contemplated by the Act because upon installation, KI's wall panels look and perform just like a typical stud wall with sheetrock. There is no real distinction between the two wall systems as far as the typical office occupant is concerned. The installation of both moveable wall panels and stud walls create barriers and corridors and an improper layout of either can impede the orderly and safe egress of the building occupants in an emergency. Additionally, an improper wall layout can negatively effect the proper operation of

HVAC systems and, if present, fire suppression systems. These hazards are widely recognized within the building and building safety industry as indicated by the fact that the IBC requires a building permit for the installation of moveable wall partitions exceeding 5' 9" in height. *See Section 105.2 of the IBC.*

The Act creates the Contractors' Licensing Board and charges it with the duty to regulate "businesses and individuals who identify, assess, and provide contract work to individuals or other legal entities" for the purpose of protecting "the health, safety, and welfare of the public." *SC Code Ann § 40-11-10(A)*. The Board has a concern that the unregulated installation of moveable, ceiling height, wall panels is contrary to this purpose. The Board is not alone in its concern. The South Carolina Building Codes Council, which adopts building codes to be used by all state jurisdictions, regulates building code inspectors, and regulates the modular building industry for the purpose of providing for "the health, safety, and welfare" of the public, has also advised the CPOC of its concern with the unregulated installation of moveable, ceiling height, wall panels.⁵ *See SC Code Ann § 6-9-5 et seq. and § 23-43-10 et. seq.* Because of this concern, the Board has an interest in interpreting the definition of a fixture broadly, perhaps more broadly than the courts have traditionally done. However, when looking at the case law regarding fixtures, it should be remembered that the courts are typically addressing whether an item attaches to the building for purposes of a contract for sale, not for purposes of providing for the health, safety, and welfare of a buildings occupants. From the standpoint of occupant safety, one might argue that there is a basis to find that moveable modular wall panels such as KI's panels have sufficient attachment, albeit ever so minimal, to the structure of the building to constitute a fixture.

Deferring to the position of the Board's staff does not resolve the issue in Langston's favor. The Board's staff has advised the CPO that a manufacturer does not need to possess a contractor's license to offer to provide and install its product provided the manufacturer uses a licensed contractor to perform the installation and the cost of the manufacturer's product is more than 51% of the total cost. [Ex. D] The Board staff bases this position on a Board policy approved on October 19, 2006 titled "General Policy by the S. C. Contractors' Licensing Board Regarding Licensure Requirements for Bid Work within South Carolina." [Ex. E] This policy, in part, provides as follows:

If the total cost of all unregulated work is 51% or more for a project and the project consists of some regulated work, an unlicensed entity or individual may bid the entire project provided the bidder has an active business that currently performs work related to the project. Consequently, the unlicensed entity or individual must subcontract any regulated work to properly licensed contractors when the total cost of each separate scope of regulated work exceeds \$5,000.

In this case, the testimony showed that KI is the manufacture of the wall panels it bid to SCC. Testimony also showed that KI subcontracts the installation work to others. Using the numbers provided by Langston, the cost of the modular wall panels is at least 75% of the total cost of the work. [Hearing Ex. 8] Since, 1) KI is directly offering to custom manufacture and install products to SCC's specifications, 2) manufacturing is not regulated by the Act, and 3) the total cost of this unregulated work exceeds 51% of the total cost, KI may offer to provide and install its product without possessing a contractor's license provided work requiring a license is performed by a licensed subcontractor.

Using Langston's bid preparation sheets, it is apparent that installation cost for this solicitation will exceed \$5,000; therefore, based on the foregoing discussion, the installation must be performed by a licensed subcontractor. The solicitation did not ask bidders to list their installation subcontractors. However, KI did notify SCC via email that its installer, Gil Smith and George Patton, possessed a contractor's license, with a license number of G111971. [Hearing Ex. 6] This license is assigned to G. A. S. Carpentry and Gilbert A. Smith, Jr. is listed as the qualifying party. [Ex. F] The license includes the license classification and group designations of BD3 and WL3. The BD designation is for the general construction-building license classification which includes the interior renovation subclassification. *See SC Code Ann § 40-11-410(1)*. The license group 3 designation allows a general contractor to bid and perform any job not exceeding \$350,000, which greatly exceeds the cost of installation. *SC Code Ann § 40-11-260(A)(3)*. Therefore, KI's installer is properly licensed to perform installation on this contract.

Legal Ability of KI's Listed Electrical Subcontractor to Perform

The fact that KI's installer is properly licensed to install the panels does not conclude the matter. KI's bid also includes electrical work that is not covered by the installer's license. In the letter of protest, Langston alleges that KI's listed electrical subcontractor, T & G Electric (T&G) is not a

⁵ The South Carolina Fire Marshal's Office and the Office of State Engineer share the Board and Council's concern for the safety of the public.

licensed commercial electrical contractor as required by the Contractors Licensing Act. Possession of the proper contractor's license by a bidder's listed subcontractors is an issue of bidder responsibility. Protest of Burkwood; Protest of Roofco. If, at the time of bidding, T&G did not possess the proper license for performing the electrical work on this project then KI is not a responsible bidder.⁶

Under the Act, electrical contracting is defined as mechanical contracting. *See SC Code Ann § 40-11-20(14) & (15)*. T&G possesses a residential electrical license limited to \$5,000, not a mechanical contractor's license issued by the Board. [Ex. G] However, KI argues that the total cost of the electrical work in their bid was less than \$5,000 and therefore T&G is not required to possess a mechanical contractor's license. In support of its position, KI submitted a copy of T&G's proposal showing a price of \$4,850.⁷ [Hearing Ex. 7] On the other hand, Langston submitted its bid work sheet along with the proposal from its listed electrical subcontractor, Holden Electrical Contractors, Inc. (Holden), showing a proposal price of \$8,750. [Hearing Ex. 8]

KI presented testimony that the reason that the price for the electrical work in their bid was so much lower than in its competitors' bids was that it manufactures its panels with much of the electrical integrated into the panels. Therefore, unlike their competitors, KI's electrician did not have to install receptacles, conduit, and wiring into the wall panels themselves. KI presented further testimony to the effect that T&G simply needed to tie the electrical pigtailed that protrude out of the wall panels into the building's electrical system and that T&G's price included all labor and material necessary to do this. The scope of work outlined in Holden's proposal to Langston supports KI's contention regarding its competitor's panels. [Hearing Ex. 8] Moreover, the testimony of Langston's president, Mr. James W. Braswell, Jr., supported KI's contention concerning its competitors' panels. Mr. Braswell confirmed that the panels Langston bid did not include integral electrical receptacles and wiring and that this material and work was included in its electrical subcontractor's work.

The Act requires a mechanical contractor's license only when the "**total cost of construction**" exceeds \$5,000. *See SC Code Ann § 40-11-30*. The total cost of construction includes all

⁶ SC Code Ann § 11-40-200(B) precludes an owner or contractor from even considering the bid of an entity or individual that does not possess the proper license subclassifications at the time of bidding.

⁷ Langston objected to the admission of this Exhibit.

materials as well as labor necessary to perform the work. Usually such materials and labor are easy to identify and breakdown but here much of the electrical is integral to the manufactured wall panels and cannot easily be separated out and included in the value of T&G's work.⁸ Moreover, the Board Staff has advised the CPOC that the price of the electrical components installed into a manufactured product as a part of the manufacturing process should not be included in the value of the electrical work.⁹ Since T&G's bid covers all other electrical cost and is less than \$5,000, T&G is not required to possess a mechanical contractor's license.

DECISION

It is the decision of the Chief Procurement Officer for Construction that SCC's determination that KI and KI's listed electrical subcontractor were responsible was not clearly erroneous, arbitrary, capricious, or contrary to law.

For the foregoing reasons, Protest denied.



John St. C. White
Chief Procurement Officer for Construction



Date

Columbia, South Carolina

⁸ There is no breakdown of the value of the electrical components within the panels or of the cost of manufacturing the electrical components into the wall panels. KI did acknowledge that if the value of the electrical components in its wall panels were included in T&G's work, the total value would exceed \$5,000.

⁹ The Board's position is sensible; otherwise, an owner would have to determine the values of the component parts of a myriad of manufactured products in determining licensure requirements. One can imagine the absurdity of an owner and the Board trying to determine the value of the electrical components of chillers, boilers, process equipment, etc., in order to analyze licensure requirements.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: www.procurementlaw.sc.gov

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the 2008 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410(4). . . . Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2008 S.C. Act No. 310, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, a business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

SE-330

EXH. #1

2008 Edition
(Revised 12-12-08)

Bid Form

Bids shall be submitted only on SE-330

BID SUBMITTED BY: Krueger International
(Bidder's Name)

BID SUBMITTED TO: Spartanburg Community College
(Agency Name)

FOR PROJECT: H59-N518-JM Spartanburg-TRB Front Office Phase I Modular Office/Wall System
(Number) (Name)

OFFER

1. In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into a Contract with the AGENCY in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Pursuant to Section 11-32-5030(1) of the SC Code of Laws, as amended, **BIDDER** has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

☒ Bid Bond with Power of Attorney ☐ Electronic Bid Bond ☐ Cashier's Check
(BIDDER check one)

3. **BIDDER**, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. BIDDER acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:

ADDENDUM No: 1 Dated June 10, 2009

5. **BIDDER** accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. **BIDDER** agrees that this Bid, including all Alternate Base Bids, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that **BIDDER** may agree to in writing upon request of the **AGENCY**.

6. BIDDER herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

6.1 BASE BID WORK (BASE BID NO. _____) (as indicated in the Bidding Documents and generally described as follows):
Project is for a moveable/modular wall system for the Tyger River Campus Front Office. Project will require
providing and installing approximately 335 linear foot of walling. Contractor shall provide, install, wire
electrical outlets in walls and wire to power panels.

which sum is hereafter called the BASE BID No.
(enter BASE BID in figures only)

(If there are additional Base Bids insert the following for each):

SE-330 Bid Form

2008 Edition
(Revised 12-12-08)

LISTING OF PROPOSED SUBCONTRACTORS

1. A Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers and fabricators are not Subcontractors and are not to be listed.
2. Bidder must list in its bid the name of only those Subcontractors that will perform the work so identified in the Invitation.
3. If Bidder determines to use its own employees to perform any portion of the work listed below, and if Bidder is qualified to perform such work under the terms of the Bidding Documents, Bidder must list itself in the appropriate place in its bid and not subcontract any of that work except with the approval of the Agency for good cause shown.
4. Bidder's failure to list a Subcontractor for each listed Specialty Subcontractor will render the BID non-responsive.
5. A Subcontractor listed for an Alternate Base Bid must be used for all work if the Alternate Base Bid is accepted.
6. Bidder hereby states its commitment to use the below-listed Subcontractors in the performance of the Subcontractor Specialty work listed.

SUBCONTRACTOR SPECIALTY (COMPLETED BY A/E)	SUBCONTRACTOR OR PRIME CONTRACTOR'S NAME (MUST BE COMPLETED BY BIDDER)	SUBCONTRACTOR'S SC LICENSE NUMBER (For Information)
--	--	---

BASE BID 1

Electrical

T & G Electric

SC2155

BASE BID 2

BASE BID 3

SE-330 Bid Form

2008 Edition
(Revised 12-12-08)

8. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State.
9. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

N/A

(Electronic Bid Bond Number)

(Signature and Title)

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 39-1375589

OR

SOCIAL SECURITY NUMBER:

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

(Classification)

(Subclassification)

(Limitations)

(SC Contractor's License Number)

SIGNATURE

Krueger International

(Legal Name of Person, Firm or Corporation Submitting Bid)

1330 Bellevue Street, PO Box 8100, Green Bay, WI 54308-8100

(Mailing Address for the above)

BY:

(Signature)

Guy Patzke

(Date)

6-17-09

Assistant Secretary

(Title)

1-800-454-9796

(Phone)



SE-330

EXH. #2

2008 Edition
(Revised 12-12-08)

Bid Form

*Bids shall be submitted only on SE-330*BID SUBMITTED BY: Langston Construction Co. of Piedmont, LLC

(Bidder's Name)

BID SUBMITTED TO: Spartanburg Community College

(Agency Name)

FOR PROJECT: 1159-N518-JM

(Number)

Spartanburg-TRB Front Office Phase I Modular Office/Wall System

(Name)

OFFER

1. In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into a Contract with the **AGENCY** in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, **BIDDER** has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

☒ Bid Bond with Power of Attorney ☐ Electronic Bid Bond ☐ Cashier's Check
(**BIDDER** check one)

3. **BIDDER**, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. **BIDDER** acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid.

ADDENDUM No: #1 Dated 6-10-09

5. **BIDDER** accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. **BIDDER** agrees that this Bid, including all Alternate Base Bids, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that **BIDDER** may agree to in writing upon request of the **AGENCY**.

6. **BIDDER** herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

6.1 **BASE BID WORK (BASE BID NO. 1)** (as indicated in the Bidding Documents and generally described as follows):
Project is for a moveable/modular wall system for the Tyger River Campus Front Office. Project will require providing and installing approximately 335 linear foot of walling. Contractor shall provide, install, wire electrical outlets in walls and wire to power panels.

\$127,200.00, which sum is hereafter called the **BASE BID No. 1**
(enter BASE BID in figures only)

(If there are additional Base Bids insert the following for each)

SE-330 Bid Form

2008 Edition
(Revised 12-12-08)

LISTING OF PROPOSED SUBCONTRACTORS

1. A Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers and fabricators are not Subcontractors and are not to be listed.
2. Bidder must list in its bid the name of only those Subcontractors that will perform the work so identified in the Invitation.
3. If Bidder determines to use its own employees to perform any portion of the work listed below, and if Bidder is qualified to perform such work under the terms of the Bidding Documents, Bidder must list itself in the appropriate place in its bid and not subcontract any of that work except with the approval of the Agency for good cause shown.
4. Bidder's failure to list a Subcontractor for each listed Specialty Subcontractor will render the BID non-responsive.
5. A Subcontractor listed for an Alternate Base Bid must be used for all work if the Alternate Base Bid is accepted.
6. Bidder hereby states its commitment to use the below-listed Subcontractors in the performance of the Subcontractor Specialty work listed:

SUBCONTRACTOR SPECIALTY (COMPLETED BY A/E)	SUBCONTRACTOR OR PRIME CONTRACTOR'S NAME (MUST BE COMPLETED BY BIDDER)	SUBCONTRACTOR'S SC LICENSE NUMBER (For Information)
--	--	---

BASE BID 1

Electrical	Holden Electrical Contractors Inc.	M-105477

BASE BID 2

BASE BID 3

SE-330 Bid Form

2008 Edition
(Revised 12-12-08)

8. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State
9. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed

ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

(Electronic Bid Bond Number)

(Signature and Title)

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 20-4008227
OR
SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

BD5

(Classification)

(Subclassification)

(Limitations)

G114953

(SC Contractor's License Number)

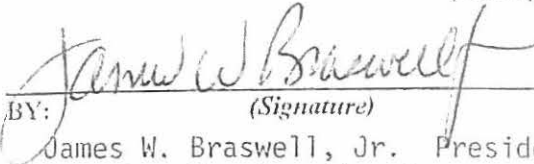
SIGNATURE

Langston Construction Co. of Piedmont, LLC

(Legal Name of Person, Firm or Corporation Submitting Bid)

P.O. Box 560 Piedmont, SC 29673

(Mailing Address for the above)

BY: 

(Signature)

6-18-09

(Date)

James W. Braswell, Jr. President of
Langston Construction Company, Inc.

(864) 295-9156

Managing Member
(Title)

(Phone)

BID TABULATION

SPARTANBURG COMMUNITY COLLEGE

Spartanburg – TRB Front Office Phase 1 Modular Office/Wall System

H59- N518-JM

June 18, 2009

2:00 PM

Physical Plant Conference Room

Contractor Name:	Bonitz Contracting Co. Inc.	Langston Construction Co.	Krueger International
Bid Security	Yes	Yes	Yes
Addendum (1)	Yes	Yes	Yes
Base Bid Amount	\$149,346.04	\$127,200.00	\$126,420.00
Non-Responsive	N/A	N/A	N/A
Electrical Contractor	Electrical Contracting Solutions, Inc.	Holden Electrical Contractors Inc.	T & G Electric

P. 1 of 1

Opening and reading bids: Jim McVey

Witness: Ray Switzer

Witness: Sheri Johnson

JMRSSJ

Date: June 18, 2009



EXH. #4

2008 Edition

SE-370 Notice of Intent to Award

AGENCY: Spartanburg Community College

(Agency Name)

PROJECT: H159-N518-JM

(Project Number)

TRB Front Office Phase 1 Modular Office/Wall System

(Project Name)

TO ALL BIDDERS:

The Agency has determined that the below-named Bidder is responsible in accordance with the requirements of the Bidding Documents and has submitted the lowest responsive Bid. The Agency hereby announces its intent to enter into a contract with this Bidder for the construction of the above-named Project, subject to the provisions of SC law.

NAME OF BIDDER(S): Krueger International (KI)DATE BIDS WERE RECEIVED: June 18, 2009

AMOUNT OF BASE BID:

\$ 126,420.00ALTERNATE(S) ACCEPTED: # Total: \$ 0

TOTAL AMOUNT OF BASE BID WITH ALTERNATE(S):

\$ 126,420.00

Remarks: (In accordance with Chapter 6 of the OSE Manual, explain any negotiations that resulted in a change in either the Base Bid or the accepted Bid Alternates)

RIGHT TO PROTEST:

Any actual bidder, offeror, contractor or subcontractor who is aggrieved in connection with the intended award or award of this Contract may protest to the State Engineer in accordance with Section 11-35-1210 of the SC Code of Laws at: CPO, Office of State Engineer, 1201 Main Street, Suite 600, Columbia, SC 29201. EMAIL: protest-ose@mmo.se.gov

(Signature of Awarding Authority)

June 19, 2009

(Date Posted)

Ray Switzer

(Print or Type Name of Awarding Authority)

Director of Physical Plant

(Awarding Authority Title)

INSTRUCTIONS TO THE AGENCY:

1. Post a copy of this form on the Date and at the Location announced at the Bid Opening.
2. Mail a copy of this Form and the final Bid Tabulation to all responsive Bidders and OSE.

SE-370

Cheryl Ferguson

From: Cheryl Ferguson
Sent: Monday, June 29, 2009 5:41 PM
To: 'Switzer, Ray'
Cc: McVey, Jim; Johnson, Sheri; Tiffany Earle; Jeff Strack; Michael Johnson; Katie Schleis
Subject: SCC Modular Wall Specs

Hello Ray,

Sorry it's taken us a while to get back to you..... Summer is tough with everyone taking their vacations while school is out!

In researching, we found out that our installer does indeed have a SC license number. These two men work together as a team and install KI projects all over the Southeast. Below is their license number and names:

G111971

George Patton and Gil Smith

Hope this wraps up any outstanding questions. Please keep in mind, that in the future, it is not necessary to bid KI-Genius demountable/movable product using a contracting type of bid. Genius is not intended to be a permanent accession to real property, and should not fall under general construction, but is more of a FF&E product. KI-Genius falls under the SC State Contract "metal" furniture contract.

Just a reminder, we are getting behind in the time line and need to set a meeting out at the job site to take final measurements and select finishes.

When is a good time for you and your group?

Cheryl Ferguson
 KI-Carolina's
 828-231-3996

From: Switzer, Ray [mailto:SwitzerR@sccsc.edu]
Sent: Thursday, June 25, 2009 1:27 PM
To: Cheryl Ferguson
Cc: McVey, Jim; Johnson, Sheri
Subject: FW: SCC Modular Wall Specs

Cheryl,

I've just spoken again with Michael Anderson with the SC Labor, Licensing, and Regulations (803-896-4613) on his determination on the licensing required for the modular wall system. He has again reviewed the system specifications and conferred with others in his office and his determination stands as was reported to me yesterday afternoon (see his below determination). Based on his determination, KI would have to have the commercial contractors license with the interior renovation classification (as defined).

On the matter of your electrical subcontractor license, based on the electrical dollar value quoted by your subcontractor it does not appear that is an issue with KI's bid.

I need your response to KI having the necessary license to perform the wall system installation as determined by the SCLLR.

Regards,
 Ray Switzer

Ray Switzer

Director of Physical Plant
Spartanburg Community College
P.O. Box 4386
Spartanburg, SC 29305
Phone: (864) 592-4157
Fax: (864) 592-4753 Fax
email: switzerr@sccsc.edu

From: Michael Anderson [mailto:andersonm@llr.sc.gov]
Sent: Wednesday, June 24, 2009 4:31 PM
To: Switzer, Ray
Cc: Joyce Thurber
Subject: FW: SCC Modular Wall Specs

Based on the documentation provided this will require at a minimum a commercial contractors license with a interior renovation classification. The electrical will require a licensed mechanical contractor with an electrical classification if the total cost of the electrical is over \$5,000.00 which would include all labor and material costs. Our interior renovation classification includes what is listed below.

"Interior Renovation" which includes installing, remodeling, renovations, and finishes of acoustical ceiling systems and panels, load-bearing and nonload-bearing drywall partitions, lathing and plastering, flooring (excluding carpet) and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork; and which also includes fireproofing, insulation, lining, painting, partitions, sandblasting, interior wall covering, and waterproofing. This subclassification does not include alterations to load-bearing portions of a structure.

From: Joyce Thurber
Sent: Wednesday, June 24, 2009 4:14 PM
To: Michael Anderson
Subject: FW: SCC Modular Wall Specs

Mike, please respond to Mr. Switzer.
Thanks,
Joyce

From: Switzer, Ray [mailto:SwitzerR@sccsc.edu]
Sent: Wednesday, June 24, 2009 3:49 PM
To: Joyce Thurber
Subject: SCC Modular Wall Specs

Ms. Thurber,
Attached are the specs we had in the project manual. Please feel free to call me if you have any further questions.
Thanks,

Ray Switzer
Director of Physical Plant
Spartanburg Community College
P.O. Box 4386
Spartanburg, SC 29305
Phone: (864) 592-4157
Fax: (864) 592-4753 Fax
email: switzerr@sccsc.edu

T & G Electric, LLC
P.O. Box 1808
Easley, S.C. 29641-1808

EXH. #7

Wednesday, June 17, 2009

Ms. Ferguson,

T & G Electric, LLC proposes to install 15-120 volt, 20 amp circuits from existing panel RP5. Circuits will be installed using EMT and MC cable. Circuits will connect to existing wiring that has been stubbed above ceiling in 5 foot increments by wall contractor. T & G Electric will be connecting to wall contractor's flexible cable only, which should be a total of 21 cables. Circuitry combination to be determined by wall contractor to total 15 circuits. 3 additional circuits will be installed in junction box above ceiling for future access. These circuits will not be connected to breakers. We propose the above for \$4850.00. Please note that upon evaluation of panel RP5 at our most recent visit to the job site, the panel had 12 remaining available spaces. This estimate may change if provisions need to be made for additional circuitry.

Also, per your request, our license # for the state of S.C. is RBE 2155. Please let us know if you have any further questions or concerns. Thank you,

Greg H. Poole
T & G Electric
864-982-2466

JOB: TRB Modular Office System

ARCHITECT: Matrix Engineering

BID DATE: 6/18/2009

OWNER: Spbg. Comm. College

[illegible]

JOB: TRB Modular Office SystemARCHITECT: Matrix EngineeringBID DATE: 6/18/2009OWNER: Spbg. Comm. College

Qty	Unit	Description	MATERIAL		LABOR		SUB-BIDS		TOTAL
			Unit \$	Ext.	Unit \$	Ext.	Unit \$	Ext.	
TOTALS FROM PREVIOUS PAGE								109,424	109,424
		Field Overhead							
2	wk	Job Supervision	0		1000	2,000	0		2,000
		Lines & Batters - Engineer							
2	wk	Project Manager	0		0		550	1,100	1,100
	ls	Temp. Office/Traile	250		250		0		
2	wk	Safety & First Aid	25	50	0		0		50
	ls	Protection & Barric	500		500		0		
		Pump & Bail							
		Maintain Temp. Roads, Park							
1	ls	Clean-up, Including	100	100	200	200	0		300
1	ls	Punch List & Final	100	100	100	100	0		200
		Job Sign							
	wk	Postage/Supplies	35		0		0		
2	wk	Mobile Phone	0		0		40	80	80
	wk	Temp. Toilets	0		0		20		
		Temp. Water & Service Conr							
		Temp. Heat, Fuel, Enclosure							
		Temp. Power, Lights, Serv. C							
	wk	Small Tools & Supp	125		0		0		
	mth	Photographs	15		0		0		
PAGE TOTALS			250		2,300		110,604		113,154

JOB: TRB Modular Office System

ARCHITECT: Matrix Engineering

BID DATE: 6/18/2009

OWNER: Spbg. Comm. College

Qty	Unit	Description	MATERIAL		LABOR		SUB-BIDS		TOTAL
			Unit \$	Ext.	Unit \$	Ext.	Unit \$	Ext.	
TOTALS FROM PREVIOUS PAGE			250			2,300		110,604	113,154
2	wk	Gas & Oil	----	-----	----	-----	250	500	500
	Is	Langston Equipment	----	-----	----	-----			
	Is	Equip Repair	----	-----	----	-----			
1	Is	Rental Equipment	----	-----	----	-----	330	330	330
	ea	Material Delivery,	0		75		0		
		Soils Tests, Concrete Tests							
	wk	Travel Expense	0		0		50		
		Per Diem							
		Other Misc. Overhead							
1	1	Dumpster rental	0		0		30	30	30
	ea	Dumpster pull	0		0		350	350	350
SUB-TOTAL			250		2,300		111,814		114,364
6	%	Sales Tax	----	15	----	-----	----	-----	15
16	%	Payroll Tax & Ins	----	-----	----	368	----	-----	368
4	%	Workers Comp Ins	----	-----	----	92	----	-----	92
15	%	Benefits	----	-----	----	345	----	-----	345
SUB-TOTAL			265		3,105		111,814		115,184
	%	Contingencies	----	-----	----	-----	----	-----	
	%	Design Cost	----	-----	----	-----	----	-----	
1	%	Office Overhead	----	-----	----	-----	----	-----	1,152
8	%	Fee	----	-----	----	-----	----	-----	9,215
SUB-TOTAL									125,551
	Is	Building Permit	----	-----	----	-----			
	Is	Business Licenses	----	-----	----	-----			
	Is	Special Insurance	----	-----	----	-----			
1	mo	Builder's Risk	----	-----	----	-----			19
1	Is	Bond, Performance	----	-----	----	-----	1536	1,536	1,536
	Is	Liquidated Damage	----	-----	----	-----			
0.08	%	AGC. Fee	----	-----	----	-----			100
TOTAL									127,206
		Cut & Add Adjustment							
PROPOSAL PRICE									127,206

HOLDEN ELECTRICAL CONTRACTORS INC.

**P.O. BOX 130
PIEDMONT, SC 29673-0130
PHONE (864) 295-0074
FAX (864) 295-0079
MOBILE (864) 630-5728
CONTRACTOR'S LICENSE M-105477**

Date: June 14, 2009

To: Mr. James Braswell

From: **Dale Holden**

Project Name: Spartanburg TRB Front office

Addenda: 1

Base Bid: \$8,750.00

Alternate #1:

Alternate #2:

Alternate #3:

The following is the scope of work to be provided by Holden Electrical Contractors Inc.

- A. Provide a complete electrical system as per drawings & specifications, and as needed for a complete and proper installation including, but not limited to:

Provide and install receptacles as shown with MC Cable per Note 7 Sheet E-3. And EMT conduit above ceiling for Home Runs.

Provide Phone/Data outlets stubbed above ceiling with pull string

Owner is responsible for phone/data wiring, relocation of lighting fixtures, occupancy sensors, and fire alarm devices

Per Important Notes sheet E-1 and Note 5 sheet E-3

ZONE BOXES AND ANY QUICK CONNECT CABLES TO BE PROVIDED BY WALL SYSTEM SUB.

General Conditions

- 1) All applicable taxes, permits and fees are included in our submission.
- 2) The contractor shall not be held liable for errors or omissions in designs by others, nor inadequacies of materials and equipment specified or supplied by others.
- 3) Equipment and materials supplied by the contractor are warranted only to the extent that the manufacturer warrants the same.
- 4) The contractor shall not be liable for indirect loss or damage.
- 5) Unless included in this proposal, all bonding and/or special insurance requirements are supplied at additional cost.
- 6) If required, temporary power and lighting can be supplied at an additional cost.
- 7) If a formal contract is required, its conditions must not deviate from this proposal without our permission.
- 8) Anything (verbal or written) expressed or implied elsewhere, which is contrary to these conditions shall be null and void.
- 9) This price expires within 90 days from date of bid.

Thank you for the opportunity to bid on this project. We look forward to working with you in the future.

Respectfully yours,

Accepted by,



Dale P. Holden

General Contractor

Physical Address: 2277 Powdersville Rd., Easley, SC 29642
Mailing Address: P.O. Box 130, Piedmont, SC 29673-0130
Phone (864) 295-0074 Fax (864) 295-0079 Mobile 630-5728

Holden Electrical Contractors, Inc.

To: Langston Construction Co. Inc.
Attn. Mr. James Braswell
From: Dale Holden
Fax: 295-9160
Pages: 3
Phone: 295-9156
Date: June 14, 2009
Re: Spartanburg TRB Front Office
CC:

• **Comments:** Following is Holden Electrical Contractor's Inc.'s bid on the aforementioned project.

If you have any questions please feel free to contact me on my cell 630-5728

Thank You

Dale Holden



June 25, 2009

Mr. John White, PE
Chief Procurement Officer for Construction
Office of State Engineer
1201 Main Street, Suite 600
Columbia, SC 29201

RE: Project H59-H518-JM
Spartanburg Community College
Phase 1 Modular Office / Wall System
Bid Date: June 18, 2009

Dear Mr. White,

We wish to register a protest of the June 19, 2009 intent to award the above referenced project to Krueger International.

Our protest is based on two facts:

1. Krueger International is not a licensed contractor in the state of South Carolina.
2. Krueger International listed an improperly licensed subcontractor on the bid form.

The South Carolina code of Laws Title 40 Chapter 11 requires this work to be performed by properly licensed contractors. We request that the bid from Krueger International be rejected and the project be awarded to Langston Construction Co. of Piedmont, LLC.

If you need additional information please do not hesitate to contact me.

Sincerely,

LANGSTON CONSTRUCTION CO. OF PIEDMONT, LLC

A handwritten signature in dark ink, appearing to read "James W. Braswell, Jr.", is written over a horizontal line. The signature is fluid and cursive, with a long vertical stroke extending downwards from the end.

James W. Braswell, Jr.

JWB/dln

P.O. Box 560 Piedmont, South Carolina 29673-0560
Phone: (864) 295-9156 Fax: (864) 295-9160

SOUTH CAROLINA BUSINESS OPPORTUNITIES

Published by Materials Management Office – R. Voight Shealy, Director

May 25, 2009

Volume 29, Issue 41

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A Listing, Published Twice Per Week, of
Proposed Procurements in Construction,
Information Technology, Supplies & Services
As Well As Other Information of Interest to the
Business Community.

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Sealed Bids Listed in This Publication Will Be Received at the Time, Place & Date Indicated in the Announcements & Then Be Publicly Opened & Read Aloud. The State/Owner Reserves the Right to Reject Any Or All Bids & to Waive Technicalities.

ARCHITECT / ENGINEERING SERVICES

COMMISSIONING SERVICES FOR FOUR LEXINGTON COUNTY SCHOOL DISTRICT ONE SCHOOLS

Sealed Proposals For Commissioning Services for two new elementary schools, a new middle school & a new high school, in Lexington, SC, will be received until 2:00pm, on Thursday, June 18, 2009, at the office of Lexington County School District One, Attention: Joe Bedenbaugh, 100 Tarrar Springs Road, Lexington, SC 29072. The following package will be accepted: Commissioning Agent.

Owner: Lexington County School District One, 100 Tarrar Springs Rd., Lexington, South Carolina 29072, Joe Bedenbaugh, Assistant Superintendent, (803) 821-1000

Lexington County School District One (Owner) Requests Written Proposals to secure commissioning authority (CxA) services for the four schools currently in design. The Owner is considering commissioning these facilities to systematically optimize the building & ancillary systems so that they operate efficiently & effectively in accordance with the Owner's project requirements, & that the facilities staffs have adequate system documentation, & training. It is the intent of the Owner to ensure that the fundamental systems are calibrated & operating as required to deliver functional & efficient performance.

Please Contact Mr. Tony Wilson, M. B. Kahn Construction Co., Inc., (803) 736-2950, to receive a Request for Commissioning Service Proposal. Proposals are to be submitted on the Form of Proposal provided & in strict accordance with the laws of the State of South Carolina.

Lexington County School District One Encourages Participation by minority businesses to submit bids for this construction project. The Owner shall award public

contracts without regard to race, religion, color, creed, national origin, sex, age or handicapping condition.

The Owner Reserves The Right to reject any & all bids & to award the contracts in the best interest of the owner.

CITY OF CHARLESTON SEEKS TO PRE-QUALIFY CHARLESTON AREA A/E FIRMS

The City Of Charleston Is Soliciting Greater Charleston area A/E firms interested in consideration for potential design contracts not-to-exceed \$50,000. Firms that offer professional services in the fields of architecture, landscape architecture, surveying, civil, environmental, mechanical, electrical, structural engineering, archaeology, interior design & historical restoration are invited to submit a resume & current Standard Form 254/330 or similar information. If your firm is a certified Minority or Woman-Owned Business Enterprise (MBE/WBE) please indicate its status on the submittal letter.

Firms That Have Previously Submitted will need to re-submit their current information. Submittals are due July 31, 2009.

Submission Does Not Guarantee a contract will be awarded.

Forward Resumes & Standard Form 254 to:

City of Charleston
Capital Projects Division
Attn: Kate Capps
823 Meeting St., 2nd floor
Charleston, SC 29403

MAINTENANCE & CONSTRUCTION OF ROADS IN ABBEVILLE COUNTY

REQUEST FOR QUALIFICATIONS

The County Of Abbeville Is Seeking Statements Of Qualifications from professional engineering firms to provide engineering services for various projects related

to the maintenance & construction of roads in Abbeville County during Fiscal years 2009-2010 through 2010-2011. The engineering firm's services shall include, but not be limited to, project assessment, surveys, design preparation of plans & specifications, contract administration & other services as may be required.

Resumes Shall Be Submitted by 2:00pm, June 11, 2009 to:

Buddy Agan
Director of Public Works
1094 Gassoway Farm Road
Abbeville, SC 29620
(804) 446-8473

For Information on instructions of qualifications statements contact Buddy Agan at the above address.

SOIL ANALYSIS OF CLEMSON AREA TRANSIT OFFICE & BUS STORAGE FACILITY SITE

The City Of Clemson Will Receive Bids for soil analysis of the property located at 208 West Lane, Clemson, SC, until 12:00pm, Thursday June 25, 2009, at the City of Clemson, 1250-1 Tiger Boulevard, Clemson, SC 29631. The City of Clemson is not responsible for delays in the mail. Bidder's name & project name, "CAT Site Soil Analysis," must be shown on the outside envelope/package containing the bid. Bids received after the stated time will not be accepted.

Borings: The soil boring contractor should contact the Owner one week prior to work commencement for coordination of times, locations, site access, etc. The boring contractor shall contact the appropriate utility location service prior to work commencement. Soil test borings are to be performed using ASTM D1586.

Proposals Should Include Nine Borings as shown on the site plan. A copy of the site plan can be obtained by contacting Andy Blondeau at (864) 653-2072 or by email at ablondeau@cityofclemson.org. The depth & location of each bore is indicated on the site plan.

Report: The following information is to be supplied in the report:

1. Boring Logs to include site plan showing boring locations. Logs should reference mean sea level. The logs should include:
 - a. Names of responsible field personnel
 - b. Dates of exploration
 - c. Exploration method/drill rig type & drilling method.
 - d. Groundwater observations
 - e. Sample Depths with standard penetration resistance (blow count).
 - f. Results of soil density & moisture tests & percent fines.
2. Brief description of local area geology. Surface features, site terrain, & site conditions that could affect construction.
3. Description of the subsurface conditions encountered during drilling. Provide approximate elevation of groundwater. Include a profile of approximate rock elevations (if encountered)
4. Recommendations for preparation of the site including rock removal (if appropriate) & size of required equipment if ripping is required.
 - a. Compaction recommendations. Include minimum relative compaction, moisture conditioning requirements, maximum size limits, lift thickness, & mixing.
 - b. Excavation slope requirements.
5. Determination if on-site fill materials can be used for sub grade fill under foundations or floor slabs.
6. Shallow foundation recommendations should include the following information:
 - a. Allowable net boring pressure for shallow foundations
 - b. Approximate total & differential settlement
 - c. Resistance to lateral loads (base friction coefficient)
7. Recommendations for floor slab-on-grade construction. Include design parameters such as modulus of sub grade reaction.
8. Seismic Site Classification based on Section 1615.1 of the 2006 International Building Code.
9. Paving Designs for light & heavy duty flexible & rigid pavements.

Submittals:

- The selected firm must submit two copies of the final report within fourteen (14) days of a signed contract. Electronic copies must also be available upon request.
- A scope of work including a clear breakdown of all tasks
- The name(s), title & license numbers of the individuals who will be performing the work.
- Lump sum cost for project execution
- Schedule for performance of services

Schedule: Proposals must be received no later than 12:00 noon on Thursday June 25, 2009. A preliminary reconnaissance of the site prior to issuing the proposal may be scheduled with Andy Blondeau, Program Manager at (864) 653-2072.

The Owner, By Way Of This RFP, does not commit itself to award a contract or pay any costs incurred in the preparation of a proposal. The Owner further reserves the right to accept or reject any or all Statements of Qualifications received or to cancel the entire RFP solicitation.

CONSTRUCTION

Invitation for Construction Bids

SCBO Notes referred to in State Agency advertisements appearing in the Construction Section of SC Business Opportunities can be found at <http://www.mmo.sc.gov/MMO/ops/SCBONotes.pdf>. Please verify requirements for non-State agency advertisements by contacting the agency / owner.

Project Name: SPARTANBURG – T.R.B. FRONT OFFICE PHASE I MODULAR OFFICE / WALL SYSTEM

Project Number: H59-N518-JM

Location: Spartanburg Community College – Tyger River Campus

Applicable SCBO Notes: 2, 4, & 5

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Project is for a moveable / modular wall system for the Tyger River Campus Front Office. Project will require providing & installing approximately 335 linear feet of walling. Contractor is to provide, install, wire electrical outlets in walls & wire to power panels. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: <\$150,000

Architect/Engineer: Matrix Engineering, Inc.

A/E Contact: Clay Phillips

A/E Address: 912 South Pine St., Spartanburg, SC 29302

A/E Telephone: (864) 583-6274

A/E Fax: (864) 583-2795

A/E E-mail: cphillips@matrizei.com

Plans on File At:

AGC: Greenville

Dodge: Greenville

Other: Imaging Technologies, Spartanburg

Plans May Be Obtained From: Spartanburg Community College - Physical Plant

Plan Deposit: \$50.00, refundable

Pre-Bid Conf./Site Visit: Non-mandatory

Pre-Bid Date/Time: 6/4/09 – 10:00am

Place: Tyger River Building, Conference Room 323, 1875 East Main St., Duncan, SC 29334

Agency/Owner: Spartanburg Community College

Name & Title of Agency Coordinator: Ray Switzer, Director of Physical Plant

Address: Business I-85 at New Cut Road, Spartanburg, SC 29303

Telephone: (864) 592-4157

Fax: (864) 592-4753

E-mail: switzer@scsc.edu

Bid Due Date/Time: 6/18/09 – 2:00pm

Place: SCC, Central Campus, Maintenance Building, Conference Room I-10, Business I-85 at New Cut Road, Spartanburg

Hand Deliver Bids To: Spartanburg Community College, Maintenance Building, Room I-2, Business I-85 at New Cut Road, Spartanburg, SC 29303

Mail Bids To: Spartanburg Community College, Attn.: Ray Switzer, PO Box 4386, Spartanburg, SC 29305

Project Name: SAFETY / ACCESSIBILITY / A.D.A. RENOVATIONS (SPORTS COMPLEX STORAGE FACILITY)

Project Number: H75-9538-GW-D

Location: Spartanburg, SC

Applicable SCBO Notes: 2, 4, & 5

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Work under the base bid of this contract includes the construction of an approximately 1,000 SF storage building for the SCSDB. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: \$25,000 to \$100,000

Architect/Engineer: Michael Keeshen & Associates, Inc.

A/E Contact: Matthew King

A/E Address: 101 East Washington St., Ste. 320, Greenville, SC 29601

A/E Telephone: (864) 233-2804

A/E Fax: (864) 233-6567

A/E E-mail: mking@keeshen.com

PROJECT MANUAL

SPARTANBURG – TRB Front Office Phase 1 Modular Office/Wall System

Project No. H59-N518-JM

Prepared By:

Physical Plant
Spartanburg Community College
Spartanburg, SC 29305

May 21, 2009

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PROJECT NUMBER: H59-N518-JM

PROJECT NAME: Spartanburg – TRB Front office Phase 1 Modular Office/Wall
System

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General Specifications	



SE-310

Invitation for Construction Bids

2008 Edition

ARTICLE 1, 2, 3, 4 and 5 APPLY TO THIS INVITATION FOR BIDS

PROJECT NAME: Spartanburg Community College Front Office/Porta Modular Office/Wall System

PROJECT NUMBER: 1179-11-10-JM

PROJECT LOCATION: Spartanburg Community College, TRC

BIDDING REQUIREMENTS

Yes ☐ No ☒ Contractor to provide performance appraisal at close of project

BIDDING REQUIREMENTS

Yes ☐ No ☒ COST ESTIMATE COST RANGE: <\$150,000

BIDDING REQUIREMENTS

Project is for a single modular wall system for the Tiger Levee Campus Front Office. Project will include construction and installing approximately 132 linear foot of walling. Contractor to provide, install, and electrical outlets in walls and wire to power bench.

CONTACT: Marix Engineering, Inc.

SEE CONTACT: Clay Phillips

CONTACT: 1179-11-10-JM

PHONE: (864)583-6274 Fax: (864)583-2795

CONTACT: 1179-11-10-JM

Email: cphillips@marixei.com

CONTACT: 1179-11-10-JM

CONTACT: 1179-11-10-JM

CONTACT: 1179-11-10-JM

CONTACT: 1179-11-10-JM

CONTACT: 1179-11-10-JM

CONTACT: 1179-11-10-JM

BIDDING REQUIREMENTS FROM: Spartanburg Community College - Physical Plant

BIDDING REQUIREMENTS

Yes ☒ No ☐ BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

Yes ☐ No ☒ BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

SCC, Tiger Levee Building, Conference room # 323

BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

PHONE: (864)592-4157 Fax: (864)592-4753

BIDDING REQUIREMENTS

Email: switzer@secco.edu

BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

LOCATION: SCC, Central Campus, Maintenance

BIDDING REQUIREMENTS

Building Conference Room # 2-10

BIDDING REQUIREMENTS

MAIL SERVICE:

BIDDING REQUIREMENTS

Spartanburg Community College

BIDDING REQUIREMENTS

Room 4356

BIDDING REQUIREMENTS

Spartanburg, SC 29101

BIDDING REQUIREMENTS

YES ☒ NO ☐

BIDDING REQUIREMENTS

BIDDING REQUIREMENTS

5/20/09
(Date)

SE-310

AIA DOCUMENT A701 – 1997 Edition

INSTRUCTIONS TO BIDDERS

(Insert the 1997 Instructions to Bidders at this location.

The document is available for review at the office of the Director of Physical Plant.)

00201-OSE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

- 3.4 *Add the following subparagraph:*
- 1.12 Wherever the word "Architect" or "A/E" appears in the INSTRUCTIONS TO BIDDERS and herein, the intent is the design professional with whom the Agency has a contractual agreement
- 3.5 *Add the following subparagraph:*
- 1.13 Wherever the word "Owner" or "Agency" appears in the INSTRUCTIONS TO BIDDERS and herein, the intent is the Agency with whom the successful Bidder will have a contractual agreement
- 3.6 *Add the following subparagraph:*
- 1.14 Wherever the phrase "in the form of" or similar appears in the Contract Documents, that phrase shall be taken to permit the use of alternative forms, provided all information required by the referenced form is submitted in a format acceptable, in their sole discretion, to the Agency and the OSE. Where the Bidder or Contractor is directed to use a specific form, that form shall be used without exception.
- 3.7 *Delete Subparagraph 2.1.3 and insert the following:*
- 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents and has accepted full responsibility for any pre-bid existing conditions that would affect the Bid that were obvious and could have been ascertained by a site visit
- 3.8 *Add the following subparagraph:*
- 2.1.5 The workplace will be maintained drug-free in accordance with Title 44, Chapter 107 of the SC Code of Laws, as amended.
- 3.9 *Add the following paragraph:*
- 2.2 If a Mandatory Pre-Bid Conference is specified in the SE-310, then:
- 2.2.1 Prospective Bidders are required to be represented at a Mandatory Pre-Bid Conference, at the specified time, date and place;
- 2.2.2 Only those prospective Bidders that are represented and are listed on the sign-in sheet will be allowed to submit Bids on the Work;
- 2.2.3 When it is in the best interest of the Agency, the Agency shall have the right to schedule more than one Mandatory Pre-Bid Conference. All prospective Bidders shall be represented and listed on the sign-in sheet of at least one Mandatory Pre-Bid Conference to be eligible to bid the Work.
- 3.10 *Add the following paragraph:*
- 2.3 If the Agency has scheduled only one Mandatory Pre-Bid Conference and only one prospective Bidder is represented at the Conference, then either:
- 2.3.1 The Pre-Bid Conference will be canceled and rescheduled for a later date to be advertised in the *South Carolina Business Opportunities (SCBO)*; or,
- 2.3.2 An additional Mandatory Pre-Bid Conference will be scheduled at a later date to be advertised in *SCBO* and which must be attended by at least one additional prospective Bidder; or,
- 2.3.3 A non-mandatory Pre-Bid Conference will be scheduled at a later date as advertised in *SCBO*; or
- 2.3.4 The project will be re-advertised in *SCBO* for open bidding under the conditions specified in the new advertisement.

00201-OSE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

1 STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

- 1.1 These Standard Supplemental Instructions To Bidders amend or supplement Instructions To Bidders (AIA Document A701-1997) and other provisions of Bidding and Contract Documents as indicated below.
- 1.2 Compliance with these Standard Supplemental Instructions is required by the Office of State Engineer (OSE) for all State projects when competitive sealed bidding is used as the method of procurement.
- 1.3 All provisions of A701-1997, which are not so amended or supplemented, remain in full force and effect.
- 1.4 Bidders are cautioned to carefully examine the Bidding and Contract Documents for additional instructions or requirements.

2 RELATED DOCUMENTS

- 2.1 AIA Document A701-1997, hereby incorporated by reference.
- 2.2 Document SE-310, *Invitation For Construction Bids*
- 2.3 Document SE-330, *Bid Form*
- 2.4 Document 00811-0SE, *Standard Supplementary Conditions*
- 2.5 Other documents that may be identified in the Bidding and Contract

3 MODIFICATIONS TO A701-1997

- 3.1 *Delete Paragraph 1.1 and insert the following:*

1.1 BIDDING DOCUMENTS include the Bid Requirements and the proposed Contract Documents.

1.1.1 Bid Requirements consist of the SE-310, *Invitation for Construction Bid*, AIA Document A701-1997, *Instructions to Bidders*, this Section 00201-0SE, *Standard Supplemental Instructions to Bidders*, the SE-330, *Bid Form* and any supplemental Instructions to Bidders included in the Bidding Documents, and all Addenda issued prior to the receipt of Bids.

1.1.2 Contract Documents consist of the AIA Document A101-1997, *Standard Form of Agreement Between Owner and Contractor*, AIA Document A201-1997, *General Conditions of the Contract for Construction*, 00811-0SE, *Standard Supplementary Conditions*, Additional Supplementary Conditions, the Scope of Work as indicated on the Plans and the Specifications, the Contractor's Bid and Contract Modifications issued after execution of the Contract. All forms shall be referenced hereafter by the form number only. The Contract Documents shall govern the Work under all Divisions and Sections the same as if incorporated therein.

1.1.3 Contract Modifications may be one of the following:

1.1.3.1 A written amendment to the Contract signed by both parties.

1.1.3.2 A Change Order.

1.1.3.3 A Construction Change Directive.

1.1.3.4 A written order for a minor change in the Work issued by the A/E.

- 3.2 *Delete Paragraph 1.8 and insert the following:*

1.8 BIDDER is a person or entity who submits a Bid to the Agency.

- 3.3 *Add the following subparagraph:*

1.10 ARCHITECT/ENGINEER (A/E) - A person or firm who performs professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture and interior design pertaining to construction, as defined by the SC Code of Laws, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including studies, investigations, surveys, evaluations, consultations, planning, programming conceptual designs, plans and specifications, cost estimates, inspections, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals and other related services. In the absence of an A/E, the Agency assumes the role of the A/E.

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STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

3.11 *Add the following paragraph:*

2.4 The A/E will publish, prior to the Bid opening, an Addendum to the Contract Documents listing the prospective Bidders that were represented and signed-in at the Mandatory Pre-Bid Conference(s).

3.12 *Delete paragraph 3.1 and substitute the following:*

3.1 COPIES OF BIDDING DOCUMENTS

3.1.1 Bidders and Sub-bidders may obtain complete sets of the Bidding Documents from the office designated in the SE-310 for the sum stated therein.

3.1.2 If the deposit is listed as refundable on the SE-310, then:

3.1.2.1 The deposit will be refunded to all plan holders that return the Bidding Documents in good condition within ten (10) days; or

3.1.2.2 The cost of replacement of missing or damaged documents will be deducted from the deposit; and.

3.1.2.3 A Bidder receiving a Contract Award may retain the Bidding Documents and the Bidder's deposit will be refunded.

3.1.3 Bidders and sub-bidders shall use complete sets of Bidding Documents in preparing Bids or sub-Bids; neither the Agency nor A/E assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents. Partial sets of Bidding Documents will not be issued.

3.1.4 The Agency and A/E have made copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

3.13 *Delete subparagraph 3.2.1 and substitute the following:*

3.2.1 The Bidder and each sub-Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid or sub-Bid is submitted. The Bidder and each sub-Bidder shall examine the site and local conditions, such as, but not limited to, location, accessibility, general character of the site or building and the extent of existing work within or adjacent to the site, and shall incorporate the impact, if any, of such conditions into the Bid submitted.

3.14 *Delete subparagraph 3.2.2 and substitute the following:*

3.2.2 Bidders and sub-Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the A/E at least ten (10) days prior to the date for receipt of Bids. No oral interpretations in regard to the meaning of Plans and Specifications will be made and no oral instructions will be given prior to the award of the Contract.

3.15 *Delete subparagraph 3.3.1 and substitute the following:*

3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. Reference in the Bidding Documents to the words "or equal" and "or approved equal" shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition.

3.16 *Delete subparagraph 3.3.4 and substitute the following:*

3.3.4 No substitutions during construction for specified items shall be allowed unless they are recommended by the A/E and approved by the Agency.

00201-0SE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

3.17 *Delete subparagraph 3.4.3 and substitute the following:*

3.4.3 No Addenda will be issued later than the fifth (5th) calendar day prior to the date set for receipt of Bids, except to:

3.4.3.1 withdraw the request for Bids; or,

3.4.3.2 postpone the date for receipt of Bids.

3.18 Add the following subparagraph:

3.4.5 When the date for receipt of Bids is to be postponed and there is insufficient time to issue a written Addendum prior to the original Bid Date, prospective Bidders shall be notified by telephone, fax or other appropriate means with immediate follow up with a written Addendum. This Addendum shall verify the postponement of the original Bid Date and establish a new Bid Date. The new Bid Date shall be no earlier than the fifth (5th) calendar day after the date of issuance of the Addendum postponing the original Bid Date.

3.19 *Add the following subparagraph:*

3.4.6 Bid Forms wherein the Bidder fails to acknowledge all issued Addenda by number shall be rejected as non-responsive, except for the following:

3.4.6.1 The Addendum only gives clarifications or lists attendees at a Mandatory Pre-Bid Conference; or,

3.4.6.2 The Bid received clearly indicates that the Bidder received the Addendum, such as where the Addendum added another item to the Invitation for Construction Bids and the Bidder submitted a Bid thereon; or,

3.4.6.3 The Addendum clearly would have had no effect or merely a trivial or negligible effect on price, quality, quantity, or delivery, and does not affect the relative standing of the Bidders. Under no circumstances can the Bid Amount be changed or modified

(1) Trivial Or Negligible Effect shall be defined as an increase in the Base Bid amount of the apparent low bidder, not to exceed one percent (1%) of the Base Bid amount. There shall be no percentage limitation if the Addendum decreases the cost of the Work. The cost of the Addendum shall be determined by the A/E or by the Agency's procurement officer

(2) Relative Standing Of The Bidders shall mean that the order of the Bidders would be the same regardless of the Addendum. If the estimated cost of the Addendum (regardless of the percent of increase) exceeds the difference between the Bids of the apparent low bidder and the second-low bidder, then the Bid of the apparent low bidder shall be rejected as non-responsive.

3.20 *Delete subparagraph 4.1.1 and substitute the following:*

4.1.1 Bids shall be submitted on the SE-330 included in the Bidding Documents, or on true copies thereof, and signed in ink or other indelible media. The Bidder shall make no stipulations or qualify its Bid in any manner not permitted on the Bid Form

3.21 *Delete subparagraph 4.1.4.*

3.22 *Delete subparagraph 4.1.5 and substitute the following:*

4.1.5 All requested Alternates must be bid.

4.1.5.1 Indicate either a dollar amount or the words "zero" or "No Change"

4.1.5.2 Indicate "ADD TO" or "DEDUCT FROM" for each Alternate

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STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

3.23 *Delete subparagraph 4.1.6.*

3.24 *Delete subparagraph 4.1.7.*

3.25 *Add the following subparagraph:*

4.1.8 Unsigned Bids shall be rejected; provided however, that an unsigned Bid shall not be rejected when it is accompanied by a properly prepared Bid Security or by other material indicating the Bidder's intention to be bound by the unsigned document, such as the submission of a Bid Guarantee with the Bid or a letter with the Bid signed by the Bidder, referring to and identifying the Bid itself.

3.26 *Add the following subparagraph:*

4.1.9 Subcontractor(s) listed on page BF-2 of the SE-330 to perform Alternate Work may be used for both the Alternate and Base Bid Work, if the Alternate is accepted.

3.27 *Delete paragraph 4.2 and substitute the following:*

4.2 BID SECURITY

4.2.1 If required as stated in the SE-310, each Bid shall be accompanied by Bid Security in the dollar amount, if any, listed on the SE-330, or in an amount of not less than five percent (5%) of the Base Bid. The Bid Security shall be:

4.2.1.1 Written on SE-335, *Bid Bond*, made payable to the Agency; or,

4.2.1.2 An electronic Bid Bond authorization number issued by a firm or organization authorized by the surety to receive, authenticate and issue binding electronic Bid Bonds on behalf the surety; or,

4.2.1.3 In the form of a certified cashier's check.

4.2.2 By providing an electronic bid bond authorization code and signing the Bid Form, the Bidder is certifying that an electronic bid bond has been executed by a Surety meeting the standards required by the Bidding Documents and the Bidder and Surety are firmly bound unto the State of South Carolina under the conditions of the SE-335 provided in the Bidding Documents.

4.2.3 To be acceptable, a Bid Bond shall:

4.2.3.1 Be issued by a surety company licensed to do business in South Carolina;

4.2.3.2 Be issued by a surety company having, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty". In addition, the surety shall have a minimum "Best Financial Strength Category" of "Class V, and in no case less than five (5) times the contract amount.

4.2.3.3 Be accompanied by a certified and current power of attorney by the attorney-in-fact who executes the bond on the behalf of the surety company; and,

4.2.3.4 Be enclosed in the bid envelope at the time of Bid Opening, either in paper copy or as a Bid Bond authorization number provided on the Bid Form.

4.2.4 By providing Bid Security, the Bidder pledges to enter into a Contract with the Agency on the terms stated in the Bidding Documents and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. The Bidder shall forfeit to the Agency as liquidated damages the amount of the Bid Security if the Bidder fails to:

4.2.4.1 Correct any Bid deficiency as required by the Bidding Documents and allowed by law; or,

4.2.4.2 Enter into such Contract; and,

4.2.4.3 Furnish such bonds, if required.

00201-OSE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

- 4.2.5** The Agency shall have the right to retain the Bid Security of any or all Bidders until such time as one of the three conditions listed below has been met:
- 4.2.5.1** The Contract for Construction has been executed and both Labor and Material Payment and Performance Bonds, if required, have been furnished; or,
 - 4.2.5.2** The specified time has elapsed so that Bids may be withdrawn; or,
 - 4.2.5.3** The Agency has rejected all Bids.
- 4.2.6** Bidders submitting a Bid Security not meeting the required amount, surety rating or financial strength rating shall have one working day from the Bid Opening to cure the deficiency or the Bid shall be considered non-responsive. The Bid Security amount submitted with the Bid must be at least 80% of the required amount to be eligible for correction.
- 3.28** *Delete Subparagraph 4.3.1 and substitute the following:*
- 4.3.1** All copies of the Bid, the Bid Security, if any, and all other documents required to be submitted with the Bid should be enclosed in a sealed opaque envelope. The Bid Envelope should be addressed to the party receiving the Bids and shall be identified with the Project Name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted.
- 3.29** *Delete subparagraph 4.3.3 and substitute the following:*
- 4.3.3** The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.
- 4.3.3.1** Bidders attending the Bid Opening should bring Bids to the place of the Bid Opening as shown in the SE-310. The Bids should be given to the procurement officer of the Agency or his designee (includes the A/E) prior to the time of the Bid Opening.
 - 4.3.3.2** Bids sent by mail or special delivery service (UPS, Federal Express, etc.) should be labeled "SEALED BID ENCLOSED", and shall be addressed to the Agency designated purchasing office as shown in the SE-310. Delivery of Bids to the above location shall be prior to the time of Bid Opening. Bids not received at the above location or Agency's mail room, prior to the time of Bid Opening, will be rejected.
- 3.30** *Add the following subparagraph:*
- 4.3.5** Any other or special documents requested of the Bidder in these Bidding Documents shall be included in the Bid Envelope. If they are not included with the Bid Envelope, the Bidder shall have twenty-four (24) hours from the time of the Bid Opening to provide these documents or its Bid shall be considered non-responsive.
- 3.31** *Add the following subparagraph:*
- 4.3.6** The official time for receipt of Bids shall be determined by reference to the clock designated by the Agency procurement officer or his designee. The procurement officer conducting the Bid Opening shall determine and announce that the deadline has arrived and no further Bids or bid modifications will be accepted. All Bids and bid modifications in the possession of the procurement officer at the time the announcement is completed shall be considered timely, whether or not the bid envelope has been date/time stamped or otherwise marked by the procurement officer.
- 3.32** *Delete subparagraph 4.4.2 and insert the following:*
- 4.4.2** Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such modification shall be in writing on the Bid Form contained in the Bidding Documents or a true copy thereof, and over the signature of the Bidder.

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STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

3.33 *Delete Article 5 in its entirety and substitute the following:*

ARTICLE 5 CONSIDERATION OF BIDS

5.1 COMPLIANCE WITH REQUIREMENTS. To be considered, Bids shall be made in accordance with these Instructions to Bidders. Failure to comply with these bidding requirements may cause a bid to be rejected.

5.2 OPENING OF BIDS

5.2.1 Bids received on time will be opened publicly and read aloud. Bids that are determined, as the time of opening, to be non-responsive shall not be read. If all Bids are to be rejected, the Agency shall announce the reason(s) therefore.

5.2.2 The date and location of the posting of the SE-370, *Notice of Intent to Award* as listed in Article 9 of this 00201-OSE will be announced.

5.2.3 The Agency shall send a copy of the final Bid Tabulation to all Bidders within ten (10) working days of the Bid Opening.

5.2.4 If the Project is to be awarded, the Agency shall send a copy of the SE-370 to all Bidders after posting.

5.2.5 If only one Bid is received, the Bid shall be opened and considered.

5.3 REJECTION OF BIDS

5.3.1 The Agency shall have the right to reject any or all Bids, reject a Bid not accompanied by a required Bid Security or by other data required by the Bidding Documents, or reject a Bid which is in any way incomplete or irregular.

5.3.2 Bids shall be rejected for any of the following reasons, which include, but are not limited to:

5.3.2.1 Failure by a Bidder to be represented at a Mandatory Pre-Bid Conference or site visit; or,

5.3.2.2 Failure to deliver the Bid on time; or,

5.3.2.3 Failure to comply with Bid Security requirements, except as allowed herein; or,

5.3.2.4 Listing an invalid electronic Bid Bond authorization number on the bid form; or,

5.3.2.5 Failure to Bid an Alternate; or,

5.3.2.6 Failure to list qualified Subcontractors as required by law; or,

5.3.2.7 Showing any modification(s) or exception(s) qualifying the Bid; or,

5.3.2.8 Faxing a Bid directly to the Agency or their representative; or,

5.3.2.9 Failure to include in the Bid Envelope all items required by the Bidding Documents; or,

5.3.2.10 Failure to include a properly executed Power-of-Attorney with the bid bond.

5.3.3 Bids shall not be rejected for the following reasons, which include, but are not limited to:

5.3.3.1 Failure to write "Sealed Bid Enclosed" on the outside of the mailing envelope; or,

5.3.3.2 Failure to seal the Bid envelope; or,

5.3.3.3 Listing a modification to the Bid on the outside of the Bid envelope, provided however that such modifications will not be considered; or,

5.3.3.4 Failure to list any information on the envelope other than that which may be required by law; or,

5.3.3.5 Providing a fax copy or other reproduction of any or all Bidding Documents in the Bid envelope; or,

00201-OSE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

5.3.3.6 Failure to indicate "ADD TO" or "DEDUCT FROM" on an Alternate, but only when the adjustment is obvious; or,

5.3.3.7 Failure to provide an Incremental Price or a Unit Price when requested on the SE-330; or,

5.3.3.8 Providing additional listings of "Subcontractor Specialty" beyond those listed on the SE-330; or,

5.3.3.9 Failure of the Bidder to sign the Bid, provided it is accompanied by a properly prepared Bid Security, or other information, as required by this Section; or,

5.3.3.10 Providing a reproduction of a signature on any or all Bidding Documents; or,

5.3.3.11 Failure of the corporation to include its seal on the Bid; or,

5.3.3.12 Bid Bond not signed by the bidder but only if the bond has been properly executed and signed by the bonding company or agent.

5.3.3.13 Immaterial variation from the exact requirements of the Bidding Documents.

5.3.4 Bidders shall have one (1) working day from the time of Bid opening to correct the following deficiencies:

5.3.4.1 Failure to provide five percent (5%) Bid Security when required, provided that the Bidder did furnish Bid Security in the proper form equal to at least eighty (80) percent of that required in the SE-310; and,

5.3.4.2 Failure to provide a Bid Bond with the proper surety rating and financial strength, provided that the Bidder did furnish Bid Security in the proper form equal to at least eighty (80) percent of that required in the SE-310.

5.4 ACCEPTANCE OF BID (AWARD)

5.4.1 INTENT TO AWARD. It is the intent of the Agency to award a Contract to the lowest evaluated responsive bid submitted by a responsible Bidder. The Agency reserves the right to conduct discussions with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the Invitation for Bid.

5.4.2 MULTIPLE BASE BIDS. When the bid documents solicit multiple base bids, it is the intent of the Agency to award a Contract to the responsible Bidder submitting the lowest responsive bid on the accepted base bid. For an example of this procedure, see Chapter 5.2, Part 5.2.6 of the Manual for Planning and Executing State Permanent Improvement Projects - Part II [see OSE Web Site <http://www.mmo.sc.gov/MMI/Ose/MMI-Ose-manual.pdf>]. Each base bid is a separate, independent bid and not an add to another bid. Award will only be made on one of the multiple base bids.

5.4.3 REJECTION OF BIDS. The Agency shall have the right to reject all Bids; to reject Unit Prices proposed in a Bid without invalidating other portions of the Bid; to waive informalities or irregularities in a Bid received and to accept that Bid which, in the Agency's judgment, is in the Agency's own best interests. Failure by the Bidder to correct any deficiency as requested may cause the Bid to be rejected as non-responsive.

5.4.4 CONTRACT EXECUTION. The Agency shall not enter into a Contract in excess of \$50,000 to the lowest responsible and responsive Bidder before the eleventh (11th) day after the SE-370, *Notice of Intent to Award* is posted. If only one bid is received and determined to be both responsive and responsible award may be made and the contract executed after posting the SE-370 without the ten-day waiting period.

00201-0SE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

- 3.34 *Delete Article 6 in its entirety and substitute the following:*

ARTICLE 6 CONTRACTOR'S QUALIFICATIONS

6.1 STANDARDS OF RESPONSIBILITY. A prospective Contractor shall be considered as meeting the State's standards of responsibility when the firm has:

6.1.1 Appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements; and,

6.1.2 A satisfactory record of performance; and,

6.1.3 A satisfactory record of integrity; and,

6.1.4 Is qualified legally to contract with the State; and,

6.1.5 Has supplied all necessary information in connection with the inquiry concerning responsibility.

6.2 ADDITIONAL INFORMATION. Each Bidder submitting a Bid shall, upon request, submit a Contractor's Statement of Qualifications in the form specified by the Agency and all additional information as required by the Agency to support the Agency's evaluation of the responsibility of the Bidder.

6.2.1 Each Bidder, by submitting a Bid, agrees to waive any claim it has or may have against the State, the Agency, the A/E and their respective employees arising out of or in connection with the administration, evaluation or recommendation of any bid.

- 3.35 *Delete Article 7 in its entirety and substitute the following:*

ARTICLE 7 PERFORMANCE AND PAYMENT BONDS

7.1 BOND REQUIREMENTS

7.1.1 When required by the SE-310, the Contractor shall provide and pay the cost of Performance and Labor and Material Payment Bonds as described and defined in Paragraph 11.5 of 00811-0SE, *Standard Supplementary Conditions*.

7.2 TIME OF DELIVERY

7.2.1 When bonds are required by the SE-310, the Contractor shall have a maximum of twenty-one (21) days from the date of posting of the SE-370, to deliver the Performance and Labor and Material Payment Bonds, Certificate of Insurance and the Contract (signed by Contractor only). Failure to deliver these documents as required shall entitle the Agency to consider the Bidder non-responsible and to declare the Bid Security forfeited.

00201-OSE

STANDARD SUPPLEMENTAL INSTRUCTIONS TO BIDDERS

3.36 *Insert Article 9 as follows:*

ARTICLE 9 PROJECT INFORMATION

9.1 PROJECT NAME: Spartanburg-TRB Front Office Phase 1 Modular Office/Wall System

PROJECT NUMBER: H59-N518-JM

PROJECT LOCATION: Spartanburg Community College, Tyger River Campus

9.2 Bids sent by mail or special delivery service (UPS, FedEx, etc.) should be labeled "SEALED BID ENCLOSED" and shall be addressed to the Agency's designated purchasing office as follows:

Name of Agency: Spartanburg Community College

Designated Purchasing Office: Physical Plant Building

PO Box 4386 or

Office Address: Business 85 and New Cut Rd. / 800 Brisack Rd., Spartanburg, SC, Maintenance Bldg

(Include building and room number)

Agency Representative: Ray Switzer, Director Physical Plant

(Name and Title)

Contact Information: (864)592-4157

(864)592-4753

switzer@seccsc.edu

Telephone

Fax

E-Mail

Special Documents Required for this Project are as follows: *(list or reference attachments)*

N/A

9.3 The SE-370, *Notice of Intent to Award*, will be posted at the following time and location:

Room or Area of Posting: Physical Plant Office, Room 1-2

Building Where Posted: Maintenance Building

Address of Building: Business 85 and New Cut Rd. / 800 Brisack Rd., Spartanburg, SC

Date of Posting: June, 19, 2009

9.4 Other Special Conditions of the Work, are listed below, or attached as referenced *(if none, so state)*

1. See Article 3.104 and 3.105 of 00811-OSE Standard Supplemental Conditions Modifying Article 11.4 of AIA Document A201, 1997 Edition, requiring the contractor to provide the builder's risk insurance on the project.

2. Contractor shall comply with the attached "Certification Regarding Illegal Immigration (Nov. 2008).

CERTIFICATION REGARDING ILLEGAL IMMIGRATION (NOVEMBER 2008)

(An overview is available at www.procurement.sc.gov)

By signing your bid, the contractor certifies 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.



SE-335 Bid Bond

KNOW ALL PERSONS BY THESE PRESENTS THAT

(Insert full name and address or legal title of Bidder)

hereinafter referred to as "Principal," and

(Insert full name and address of principal place of business of Surety)

a corporation duly organized and existing under the laws of the State of _____, with its principal office in the City of _____, and authorized to transact business in this State, hereinafter called the "Surety", are jointly and severally held and firmly bound unto

Spartanburg Community College

(Insert full name of Agency)

hereinafter referred to as "Obligee", the sum of _____, being the sum of the Bond to which payment the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted to Obligee the accompanying bid incorporated by reference herein, dated as shown, to enter into a contract in writing for

H159-N518-JM Spartanburg - TRB Front Office Phase 1 Modular Office/Wall System

(Insert the State Project Number & Name as found on the SE-330, Bid Form)

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that default of Principal shall occur upon the failure of the Principal to deliver, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents. This obligation shall be null and void if the Obligee shall accept Principal's Bid and Principal delivers, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents; or all Bids are rejected by Obligee; or Obligee fails to issue a Notice of Intended Award to Principal within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Principal). Payment under this Bond shall be due and payable in full upon default of Principal and within 30 calendar days after receipt by Principal and Surety of written notice of default from Obligee, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue the Notice of Intended Award agreed to in writing by Obligee and Principal. Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the Dispute Resolution process defined in the Bidding Documents and the laws of the State of South Carolina. Surety shall cause to be attached to the Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

IN WITNESS WHEREOF, Surety and Principal, intending to be legally bound hereby, subject to the terms stated above, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

DATED this _____ day of _____, BOND NUMBER _____

PRINCIPAL

SURETY

(Principal's Name)

(Surety's Name)

BY: _____

BY: _____

(Signature and Title)

(Signature and Title) (Attach Power of Attorney)

ATTEST: _____

ATTEST: _____

(Signature and Title)

(Signature and Title)



SE-330
Bid Form

2008 Edition
(Revised 12-12-08)

Bids shall be submitted only on SE-330

BID SUBMITTED BY: _____
(Bidder's Name)
BID SUBMITTED TO: Spartanburg Community College
(Agency Name)
FOR PROJECT: II59-N518-JM Spartanburg-TRB Front Office Phase I Modular Office/Wall System
(Number) (Name)

OFFER

1. In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into a Contract with the **AGENCY** in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, **BIDDER** has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

☐ Bid Bond with Power of Attorney ☐ Electronic Bid Bond ☐ Cashier's Check
(**BIDDER** check one)

3. **BIDDER**, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. **BIDDER** acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:

ADDENDUM No: _____

5. **BIDDER** accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. **BIDDER** agrees that this Bid, including all Alternate Base Bids, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that **BIDDER** may agree to in writing upon request of the **AGENCY**.

6. **BIDDER** herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

6.1 BASE BID WORK (BASE BID NO. _____) (as indicated in the Bidding Documents and generally described as follows):
Project is for a moveable/modular wall system for the Tyger River Campus Front Office. Project will require providing and installing approximately 335 linear foot of walling. Contractor shall provide, install, wire electrical outlets in walls and wire to power panels.

_____, which sum is hereafter called the **BASE BID No.**
(enter BASE BID in figures only)

(If there are additional Base Bids insert the following for each).

SE-330 - Bid Form

2008 Edition
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BASE BID WORK (BASE BID NO. _____) (as indicated in the Bidding Documents and generally described as follows):

_____ which sum is hereafter called the BASE BID No.
(enter BASE BID in figures only)

BASE BID WORK (BASE BID NO. _____) (as indicated in the Bidding Documents and generally described as follows):

_____ which sum is hereafter called the BASE BID No.
(enter BASE BID in figures only)

6.2 UNIT PRICE WORK

BIDDER offers for the Agency's consideration and use the following **UNIT PRICES**. The **UNIT PRICES** offered by **BIDDER** indicate the amount to be added to or deducted from the Contract Sum for each item-unit combination. **UNIT PRICES** include all costs to the Agency, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Agency reserves the right to include or not to include any of the following **UNIT PRICES** in the Contract and to negotiate the **UNIT PRICES** with **BIDDER**.

<u>No.</u>	<u>ITEM</u>	<u>Base Bid Qty.</u>	<u>Unit of Measure</u>	<u>ADD</u>	<u>DEDUCT</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

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LISTING OF PROPOSED SUBCONTRACTORS

1. A Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers and fabricators are not Subcontractors and are not to be listed.
2. Bidder must list in its bid the name of only those Subcontractors that will perform the work so identified in the Invitation.
3. If Bidder determines to use its own employees to perform any portion of the work listed below, and if Bidder is qualified to perform such work under the terms of the Bidding Documents, Bidder must list itself in the appropriate place in its bid and not subcontract any of that work except with the approval of the Agency for good cause shown.
4. Bidder's failure to list a Subcontractor for each listed Specialty Subcontractor will render the BID non-responsive.
5. A Subcontractor listed for an Alternate Base Bid must be used for all work if the Alternate Base Bid is accepted.
6. Bidder hereby states its commitment to use the below-listed Subcontractors in the performance of the Subcontractor Specialty work listed:

SUBCONTRACTOR SPECIALTY (COMPLETED BY A/E)	SUBCONTRACTOR OR PRIME CONTRACTOR'S NAME (MUST BE COMPLETED BY BIDDER)	SUBCONTRACTOR'S SC LICENSE NUMBER (For Information)
--	--	---

BASE BID 1

Electrical

BASE BID 2

BASE BID 3

SE-330 Bid Form

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TIME OF CONTRACT PERFORMANCE

BIDDER hereby agrees to complete the construction work in accordance with the following schedule:

1. The **DATE OF COMMENCEMENT** shall be established in Form SE-390, *Notice to Proceed*. The **BIDDER** shall not incur any expense chargeable to this Project until the Contract has been executed by both the Agency and the Contractor, and a Notice to Proceed has been issued.
2. The **DATE OF SUBSTANTIAL COMPLETION**, to be documented on Form SE-550A, *Certificate of Substantial Completion*, shall be (60) **CALENDAR DAYS** from the **DATE OF COMMENCEMENT** set forth in the SE-390, subject to adjustments as provided in the Contract Documents.
3. The **DATE OF FINAL COMPLETION**, to be documented on Form SE-560C, *Certificate of Final Completion*, shall be (10) **CALENDAR DAYS** from the **DATE OF SUBSTANTIAL COMPLETION**, subject to adjustments as provided in the Contract Documents.

LIQUIDATED DAMAGES AND EARLY COMPLETION AWARD

1. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step One Liquidated Damages** the amount of \$250.00 for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** exceeds the specified or adjusted Contract time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.
2. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step Two Liquidated Damages** the amount of \$100.00 for each calendar day the actual construction time required to achieve **FINAL COMPLETION** exceeds the specified or adjusted Contract Time for **FINAL COMPLETION**, as provided in the Contract Documents.
3. The undersigned further agrees that in full and complete satisfaction for the best efforts of the undersigned to achieve **SUBSTANTIAL COMPLETION** before the date established above, the Agency shall pay the undersigned an **Early Completion Award** in the amount of N/A for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** is less than the originally specified Contract Time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.

AGREEMENTS

By submitting this Bid, **BIDDER** hereby agrees to the following terms and conditions:

1. An incomplete Bid, or information not requested that is written on or attached to this Bid Form that could be considered a qualification of the Bid, may be cause for rejection of the Bid.
2. The failure of the **BIDDER** to indicate a price for an **ALTERNATE BASE BID** shall render the Bid non-responsive. A typed or printed "No Bid", or words of similar meaning, shall render the Bid non-responsive.
3. The **BIDDER** shall list only **SUBCONTRACTORS** (as defined in the Bidding Documents) who are qualified to perform items of work as specified in the Bidding Documents or as required by any material or equipment substitutions approved at the time of bidding. No **BIDDER** whose Bid is accepted shall substitute another entity as **SUBCONTRACTOR** in place of the **SUBCONTRACTOR** listed in the original Bid, except for one or more of the reasons allowed by the SC Code of Laws.
4. The failure of the **BIDDER** to provide the name(s) of listed **SUBCONTRACTORS** in accordance with the SC Code of Laws shall render the Bid non-responsive.
5. Unless otherwise provided in the Bidding Documents, **BIDDER** will provide Performance and Labor and Material Payment Bonds, each in the amount equal to 100% of the Contract Award, as a condition of execution of the Contract. Failure to supply such bonds as required by the Contract Documents shall result in cancellation of the Notice of Intent to Award and forfeiture of the Bid Bond.
6. **BIDDER** agrees to provide all information requested by the **AGENCY** to support the **AGENCY'S** evaluation and determination of the **BIDDER'S** responsibility, including completion of Form SE-350, *Questionnaire for Contractors*. The Questionnaire shall be completed fully and returned to the **AGENCY** within SEVEN (7) DAYS from date of receipt by the **BIDDER** by certified mail. The completed Form SE-350 must be received by the Agency no later than the close of business on the seventh day. Failure by **BIDDER** to supply requested information with respect to responsibility may be grounds for a determination of non-responsibility.
7. The **BIDDER** certifies that it will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws, and shall comply with the requirements set forth in Title 44, Chapter 107.

SE-330 Bid Form

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8. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State.
9. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

(Electronic Bid Bond Number)

(Signature and Title)

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: _____

OR

SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

(Classification)

(Subclassification)

(Limitations)

(SC Contractor's License Number)

SIGNATURE

(Legal Name of Person, Firm or Corporation Submitting Bid)

(Mailing Address for the above)

BY: _____
(Signature)

(Date)

(Title)

(Phone)

AIA DOCUMENT A101 – 1997 Edition

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

(Insert the 1997 Standard Form of Agreement Between Owner and Contractor at this location.

The document is available for review at the office of the Director of Physical Plant.)

STANDARD MODIFICATIONS TO AIA A101-1997**1 STANDARD MODIFICATIONS TO AIA A101-1997**

- 1.1 These Standard Modifications amend or supplement the *Standard Form of Agreement Between Owner and Contractor* (AIA Document A101-1997) and other provisions of Bidding and Contract Documents as indicated below.
- 1.2 Compliance with these Standard Modifications is required by the Office of State Engineer (OSE) for all projects when competitive sealed bidding is used as the method of procurement.
- 1.3 All provisions of A101-1997, which are not so amended or supplemented, remain in full force and effect.
- 1.4 These Standard Modifications shall be attached to the AIA A101-1997 upon execution of the Agreement. Refer to the OSE Document *Instructions for Completion of Standard Form of Agreement Between Owner and Contractor* (AIA Document A101-1997) for additional guidance on the proper completion of the A101.

2 RELATED DOCUMENTS

- 2.1 AIA Document A101-1997 hereby incorporated by reference and referred to hereafter as A101.
- 2.2 AIA Document A201-1997 hereby incorporated by reference and referred to hereafter as A201.
- 2.3 Document 00811-OSE, Standard Supplementary Conditions, 07/01 Edition
- 2.4 Other documents that may be identified in the Bidding and Contract Documents.

3 MODIFICATIONS TO A101

- 3.1 *Delete the first sentence of Article 1 and substitute the following:* The Contract Documents consist of this Agreement, 00501-OSE, Conditions of the Contract for Construction (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in Article 8 of this Agreement and Modifications issued after executions of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein.
- 3.2 *Delete Article 2 and insert the following:* The Contractor shall fully execute the Work described in the Contract Documents or reasonably inferable by the Contractor as necessary to produce the results indicated by the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.
- 3.3 *Delete Paragraph 3.1 and substitute the following:* The date of commencement of the Work shall be established in the SE-390, "Notice to Proceed." The Notice to Proceed will be issued to the Contractor in writing, no less than seven (7) days prior to the Date of Commencement. Nothing in this provision precludes the contractor from commencing work immediately after receipt of the Notice to Proceed.
- 3.4 *Add the following new Paragraphs 3.4 and 3.5 to the end of Article 3:*

3.4 The Contractor acknowledges and recognizes that the Agency is entitled to full and beneficial occupancy and use of the completed Work following expiration of the Contract Time. It is hereby mutually agreed by and between the parties that time shall be an essential part of the Agreement and the Contractor further acknowledges and agrees that if the Contractor fails to complete substantially or cause the Final Completion of any portion of the Work within the Contract Time, the Agency will sustain damages and loss as a result of such failure. The exact amount of such damages will be difficult to ascertain. Therefore, the Agency and the Contractor agree as set forth below in this Paragraph 3.4.

3.4.1 If the Contractor fails to achieve Substantial Completion of the Work within the Time for Completion allowed in the Agreement, the Agency shall be entitled to retain or recover from the Contractor and its Surety, as Step One liquidated damages and not as a penalty, the following per diem amounts commencing upon the first day following expiration of the specified or adjusted time of performance and continuing until the actual

STANDARD MODIFICATIONS TO AIA A101-1997

Date of Substantial Completion Such liquidated damages are hereby agreed to be a reasonable estimate of damages the Agency will incur as a result of delayed completion of the Work: *(Insert a breakdown of per diem amounts shown on the SE-330.)*

N/A

3.4.2 If Final Completion of the Work is not achieved within the time allowed in the SE-330 for work after Substantial Completion, and if the Agency and OSE have not granted any extension of time, the Contractor shall owe to the Agency, not as a penalty but as Step Two liquidated damages, the sum stated below as Step Two liquidated damages for each and every partial or total calendar day of delay in Final Completion: *(Insert a breakdown of per diem amounts shown on the SE-330.)*

N/A

3.4.3 The Agency may deduct liquidated damages described in Subparagraphs 3.4.1 and 3.4.2 from any unpaid amounts then or thereafter due the Contractor under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due the Contractor shall be payable to the Agency by the Contractor or its Surety at the demand of the Agency.

3.5 The Contractor shall be entitled to an Early Completion Award in the amount of N/A per day if the Contractor achieves Substantial Completion of the entire Work before the original Time for Completion; provided, however, that the Award shall not be payable until the time of final payment. If the Contractor has earned an Award with respect to the Work, the Agency shall have the right, at the Agency's election, to deduct from the Award any amounts due from the Contractor to the Agency. The Contractor shall include a provision in each of its subcontracts in excess of N/A

("Major Subcontracts") that requires the Contractor to pay such Major Subcontractor a share of any Award that bears the same ratio to the total Award as the amount of the Major Subcontract bears to the Contract Sum. In no event shall the Contractor be awarded any portion of the Award if the entire Work is not Substantially Complete on or before expiration of the original Contract Time for Substantial Completion. *(Insert the amount of any Early Completion Award per diem as shown on the SE-330 and the minimum dollar value for any Subcontractor to be eligible for a pro rata share of the Award.)*

3.5 *Add the following to Paragraph 4.3:*

4.3.1 Unit prices are set forth in the "Schedule of Unit Prices" attached hereto and made a part hereof as Exhibit (N/A). Such unit prices are considered complete and include: (1) all materials, equipment, labor, delivery, installation, overhead, and profit; and, (2) any other costs or expenses in connection with, or incidental to, the performance of that portion of the Work to which such unit prices apply.

3.6 *Delete Subparagraph 5.1.1 and substitute the following:*

5.1.1 Based on Applications for Payment, including all supporting documentation, submitted to the Agency and the A/E by the Contractor and Certifications for Payment issued by the A/E, the Agency shall make progress payment on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

3.7 *Delete Subparagraph 5.1.3 and insert the following:*

5.1.3 An Application for Payment, including all supporting documentation, for the period of time established in Subparagraph 5.1.2 shall be received by the A/E and the Agency not later than (10) days after the end of the period for which the Contractor is making application for payment. Payment on approved amounts shall be made by the Agency not later than twenty-one (21) days after the A/E and the Agency receive the Application for Payment. *(Insert the expected number of days required by the Contractor to prepare its Applications for Payment.)*

STANDARD MODIFICATIONS TO AIA A101-1997

3.8 *Add the following sentence to Subparagraph 5.1.5:*

Each Application for Payment shall include such other information, documentation, and materials as the Agency or the A/E may require to substantiate the Contractor's entitlement to payment.

3.9 *Delete Clause 5.1.7.1 and substitute the following:*

Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to ninety-six and one half percent (96.5%) of the Contract Sum, less any amounts the A/E shall determine for incomplete and unacceptable Work, retainage applicable to such work, unsettled claims, Step One liquidated damages then due, and anticipated Step Two liquidated damages, if any.

3.10 *Add the following Clause to Subparagraph 5.1.8:*

5.1.8.1 Refer to Subparagraphs 9.6.2 and 9.8.5 of the General Conditions. Any reduction or release of retainage, or portion thereof, however, shall not be a waiver of: (1) any of the Agency's rights to retainage in connection with other payments to the Contractor; or, (2) any other right or remedy that the Agency has under the Contract Documents, at law or in equity.

3.11 *Delete Subparagraph 5.2.2 and insert the following:*

5.2.2 Final payment shall be made within twenty-one (21) days from the date the Agency (or A/E) receives the final undisputed Application for Payment, including all supporting documentation, from the Contractor. All conditions stipulated in the General Conditions shall have been met before final payment is made.

3.12 *Insert the words "... as amended," after "... 1997" in paragraph 6.1.*3.13 *Insert the words "... as amended," after "... 1997" in paragraph 6.2.*3.14 *Add the following to Paragraph 7.2:*

Refer to Subparagraph 9.6.2 of the General Conditions.

3.15 *Add the following Subparagraphs:*

7.6.1 Contractor shall not incur any expense chargeable to the Agency on or about the Work of this Agreement until the Notice to Proceed is issued.

7.6.2 The Contractor represents and warrants the following to the Agency (in addition to any other representations and warranties contained in the Contract Documents), as an inducement to the Agency to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement, and the final completion of the Work:

7.6.2.1 that it and its Subcontractors are financially solvent, able to pay all debts as they mature, and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;

7.6.2.2 that it is able to furnish the plant, tools, materials, supplies, equipment, and labor required to complete the Work and perform its obligations hereunder;

7.6.2.3 that it is authorized to do business in the State of South Carolina and properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and over the Work and the Project;

7.6.2.4 that its execution of this Agreement and its performance thereof is within its duly authorized powers;

7.6.2.5 that its duly authorized representative has visited the site of the Project, familiarized himself with the local and special conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents; and

7.6.2.6 that it possesses a high level of experience and expertise in the business administration, construction, construction management, and superintendence of projects of the size, complexity, and nature of this particular Project; and it will perform the Work with the care, skill, and diligence of such a contractor. The foregoing warranties are in addition to, and not in lieu of, any and all other liability imposed upon the Contractor by law with respect to the Contractor's duties, obligations, and performance hereunder. The Contractor acknowledges that the Agency is relying upon the Contractor's skill and experience in connection with the Work called for hereunder.

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7.6.3 The Agency reserves the right, pursuant to Article 7 of the General Conditions to modify the Work of the Contractor. The Agency has been certified to approve Change Orders to the Contract, where the value of each procurement is \$50,000 or less.

(Insert the amount of Agency's Construction Change Order Certification)

3.16 Insert the words "... as amended by 00501-OSE and as otherwise stated herein." after "... 1997" in Subparagraph 8.1.1.

3.17 Insert the words "... as amended," after "... 1997" in Subparagraph 8.1.2.

3.18 In Subparagraph 8.1.3 insert the Project Manual issue date and list the following:

Pages

00811-OSE Standard Supplemental Conditions

20

3.19 List the following in Subparagraph 8.1.4:

00201-OSE Standard Supplemental Instructions to Bidders

9

00501-OSE Standard Modifications to AIA A101-1997

4

3.20 List the following in Subparagraph 8.1.7:

Table of Contents

Invitation for Construction Bids (SE-310)

Instructions to Bidders (AIA Document A701-1997 Edition)

Contractor's Bid (Completed SE-330)

END OF DOCUMENT

AIA DOCUMENT A201 - 1997 Edition

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

(Insert the 1997 General Conditions of the Contract for Construction at this location. The document is available for review at the office of the Director of Physical Plant.)

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1 GENERAL CONDITIONS

- 1.1 The *General Conditions of the Contract for Construction*, AIA Document A201, 1997 Edition, Articles 1 through 14 inclusive, is a part of this Contract and is incorporated as fully as if herein set forth. For brevity, AIA Document A201 is also referred to in the Contract Documents collectively as the "General Conditions."

2 STANDARD SUPPLEMENTARY CONDITIONS

- 2.1 The following supplements modify, delete and/or add to the General Conditions. Where any portion of the General Conditions is modified or any paragraph, subparagraph or clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of the General Conditions shall remain in effect.
- 2.2 Unless otherwise stated, the terms used in these Standard Supplementary Conditions which are defined in the General Conditions have the meanings assigned to them in the General Conditions.

3 MODIFICATIONS TO A201-1997

- 3.1 *Delete Clause 1.1.2(2) and substitute the following:*

(2) between the Agency and a Subcontractor or Sub-subcontractor, except as set forth in Paragraph 5.4

- 3.2 *Add the following Subparagraph 1.1.8:*

1.1.8 THE MANUAL. The Manual is the "Manual for Planning and Execution of State Permanent Improvements - Part II" as published by the Office of State Engineer (OSE).

- 3.3 *Add the following Subparagraphs 1.1.9 and 1.1.10:*

1.1.9 AGENCY. The State Agency, institution or department that is a party to the Contract. For purposes of the Contract, the term Owner shall include such Agency, whether or not the Agency owns the site or the building.

1.1.10 NOTICE TO PROCEED. A document (SE-390) issued by the Agency to the Contractor (with a copy to A/E) fixing the date on which the Contract time will commence for the Contractor to begin the prosecution of the Work in accordance with the requirements of the Contract Documents.

- 3.4 *Add the following to Subparagraph 1.2.1:*

In the event of inconsistencies within or between parts of the Contract Documents or between the Contract Documents and applicable standards, codes, and ordinances, the Contractor shall:

1.2.1.1 provide the better quality or greater quantity of Work; or,

1.2.1.2 comply with the more stringent requirement; either or both in accordance with the A/E's interpretation.

- 3.5 *Delete Subparagraph 1.5.1 and substitute the following:*

1.5.1 The A/E shall assist the Agency and Contractor with the execution of the Contract in accordance with the requirements of the Manual. The A/E shall identify and assist in the correction of any incomplete, missing or unsigned documents upon request of the Agency.

- 3.6 *Delete Subparagraph 1.5.2 and substitute the following:*

1.5.2 The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work, or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground, and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Agency, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Agency.

1.5.3 The Agency assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Agency. Nor does the Agency assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this Contract, unless that understanding or representation is expressly stated in this Contract.

- 3.7 *Add the following to the end of Subparagraph 1.6.1*

The Agency shall retain all common law, statutory and other reserved rights, in addition to the limited use copyright, in accordance with the contract between the Agency and the A/E for this Project.

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- 3.8 **Delete the first sentence of Subparagraph 2.1.2 and substitute the following:**
The Agency, upon reasonable written request, shall furnish to the Contractor in writing such information which is in the Agency's possession and which is necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights.
- 3.9 **Delete the second sentence of Subparagraph 2.2.3 and substitute the following:**
Subject to the Contractor's obligations, including those in Subparagraphs 1.5.2 and 3.2.1, the Contractor shall be entitled to rely on the accuracy of information furnished by the Agency pursuant to this Subparagraph, but shall exercise proper precautions relating to the safe performance of the Work.
- 3.10 **Delete the word "...under..." in the last sentence of Subparagraph 2.2.4 and substitute "...which is within...". Add the following sentence at the end of Subparagraph 2.2.4:**
Neither the Agency nor the A/E shall be required to conduct investigations or to furnish the Contractor with any information concerning subsurface characteristics or other conditions of the areas where the Work is to be performed beyond that which is provided in the Contract Documents. The Contractor shall not be entitled to rely on the accuracy of any information or services provided pursuant to this Subparagraph.
- 3.11 **Delete Subparagraph 2.2.5 and substitute the following:**
2.2.5 The Contractor will be furnished, free of charge, ten (10) sets of the Drawings and Project Manual and will be furnished, at actual cost to the Agency, as many additional copies as he may require.
- 3.12 **Delete Subparagraph 2.4.1 and substitute the following:**
2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails, within a seven-day period after receipt of written notice from the Agency, to provide the resources needed to achieve correction of such default or neglect with diligence and promptness, the Agency may, without prejudice to other remedies the Agency may have, proceed to correct such deficiencies. In such case an appropriate Change Directive shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Agency's expenses and compensation for the A/E's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor or its Surety shall pay the difference to the Agency.
- 3.13 **Add the following Subparagraph 2.4.2:**
2.4.2 If, after achieving Substantial Completion, the Contractor then defaults, or neglects to complete or fails to provide resources adequate to complete the Project within the adjusted Contract Time for Final Completion as defined in Subparagraph 8.2.5, the Agency may carry out the work after giving the Contractor a single seven-day written notice of the Contractor's default or neglect. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Agency's expenses and compensation for the A/E's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor or its Surety shall pay the difference to the Agency.
- 3.14 **Delete the word "...design..." and insert the word "inconsistencies,..." after "Any..." in the first sentence of Subparagraph 3.2.2.**
- 3.15 **Change the last sentence of Subparagraph 3.3.1 to read as follows:**
If the Contractor is then instructed by the Agency in writing to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Agency shall be solely responsible for any resulting loss or damage.
- 3.16 **Add the following clauses to Subparagraph 3.4.1:**
3.4.1.1 The Contractor shall not allow the use of asbestos containing products, whether temporary or permanent and whether or not incorporated or to be incorporated in the work, even if the products are nonfriable and/or contain minimal amounts of asbestos, and even though such products may still be legally installed.
3.4.1.2 The Contractor shall not allow the use of lead materials in public water applications. Lead free solder, flux and pipe must be used in all public drinking water and waste water applications. Lead free solder and flux are defined as containing less than 0.2% lead, while valves, pipes and appurtenances must contain less than 8.0% lead.
- 3.17 **Delete Subparagraph 3.5.1 and substitute the following:**
3.5.1 The Contractor warrants to the Agency and the A/E that all materials and equipment furnished under the Contract shall be in first class condition, and new unless otherwise required or permitted by the Contract Documents; that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. If required by the Agency or the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants that all workmanship shall be of the highest quality and in accordance with the Contract Documents, and shall be performed by persons well-qualified at their respective trades.

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Unless caused by the Contractor, the Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not performed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Agency or the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.18 *Add the following Subparagraph 3.6.2:*

3.6.2 The Contractor's attention is directed to Title 12, Chapter 9, SC Code of Laws, as amended, concerning withholding tax for nonresidents, employees, contractors and subcontractors.

3.19 *Delete the words "...building permit and other" in Subparagraph 3.7.1.*
Add the following to Subparagraph 3.7.1:

Pursuant to §10-1-180 of the SC Code of Laws, as amended, no local general or specialty building permits are required for state buildings; however, the Contractor is required to obtain, at its own cost, all state and local business licenses and general building and specialty inspection services as required by the Contract Documents. The Contractor shall be responsible for payment of any charges imposed for reinspection.

3.20 *Delete the last sentence of Clause 3.8.2.3 and substitute the following:*

The amount of the Change Order shall reflect the difference between actual costs under Clause 3.8.2.1, as documented by invoices, and the allowance amounts.

3.21 *Insert the word "...unreasonable ..." between "...avoid..." and "...delay..." in Subparagraph 3.8.3.*

3.22 *Add the following Subparagraph 3.9.2:*

3.9.2 The Contractor's superintendent and necessary assistants shall be acceptable to the Agency. The Contractor shall notify the Agency, in writing, of any proposed change in superintendent, including the reason therefore, prior to making such change. The superintendent shall not be changed except with the consent of the Agency, unless the superintendent ceases to be in the Contractor's employ.

3.23 *Add the following Clauses to Subparagraph 3.10.1:*

This schedule shall:

3.10.1.1 indicate the dates for the start and completion of the various elements of the Work, and shall be affirmed or revised monthly as required by the conditions of the Work and upon execution of a Change Order that affects time.

3.10.1.2 provide a graphic representation of activities and events that will occur during performance of the Work in sufficient detail, and as acceptable to the Agency, to show the sequencing of the various trades for each floor level, wing or work area;

3.10.1.3 identify each phase of construction and occupancy; and,

3.10.1.4 set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates").

3.24 *Delete Subparagraphs 3.10.3 and insert the following:*

3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to and approved by the Agency.

3.10.3.1 If the Contractor submits a schedule or schedule progress report indicating, or otherwise expresses an intention to achieve Substantial or Final Completion of the Work or any portion thereof, prior to any completion date required by the Contract Documents or to the expiration of the Contract Time, no liability to the Agency for any failure of the Contractor to do so complete the Work shall be created or implied. The Contractor shall not be entitled to an adjustment in the Contract Sum or the Contract Time for failure to achieve such early completion dates.

3.25 *Add the following sentence to Subparagraphs 3.11.1:*

Prompt delivery to the A/E of the materials and items specified above, in good order, shall be a condition precedent to the Contractor receiving a Certificate of Substantial Completion.

3.26 *After the word "...instructions..." insert "...training and operations manuals..." in Subparagraph 3.12.2.*

3.27 *Add the following Clauses to Subparagraph 3.12.5:*

3.12.5.1 Sprinkler shop drawings shall be prepared by the licensed sprinkler Contractor. The sprinkler shop drawings shall be reviewed and approved by the A/E's engineer of record before submittal to the State Fire Marshal or other authorities having jurisdiction.

3.12.6.2 The Contractor shall submit a copy of the State Fire Marshal's approval letter to the A/E and the OSE.

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- 3.28 *Delete Subparagraph 3.12. 10 and substitute the following:*
3.12.10 When professional certification of materials, systems or equipment is required by the Contract Documents, the A/E shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.
- 3.29 *In the first sentence of Subparagraph 3.18.1 delete the phrase beginning "...and to the extent...with Paragraph 11.3..."*
In the first sentence of Subparagraph 3.18.1 after the word "...itself..." delete the phrase "..., but only to the extent caused..." and insert "...including loss of use resulting therefrom, but only to the extent caused in whole or in part by..."
- 3.30 *Add the following Subparagraph to Paragraph 3.18:*
3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the A/E, the A/E's consultants, and agents and employees of any of them arising out of: (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications; or (2) the giving of or the failure to give directions or instructions by the A/E, the A/E's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.
- 3.31 *Delete Subparagraph 4.1.1 and substitute the following:*
4.1.1 The term "Architect," "Architect/Engineer," or "A/E" is the entity named as such in the SE-310, "Invitation For Construction Bids". The "Architect" or "A/E" may be the Agency, if so designated in the SE-310. In the absence of a licensed design professional, these terms mean the Agency.
- 3.32 *Insert the following before the last sentence of Subparagraph 4.2.1:*
Notwithstanding these responsibilities, no act or omission by the A/E shall be considered a waiver of any of the Agency's rights or interests.
Add the following Clause to Subparagraph 4.2. 1:
4.2.1.1 Any reference in the Contract Documents to the A/E's taking action or rendering a decision within a "reasonable time" is understood to mean no more than fourteen (14) days, unless otherwise specified in the Contract Documents or otherwise agreed to by the parties.
- 3.33 *Delete the first paragraph of Subparagraph 4.2.2 and substitute the following:*
The A/E, as a representative of the Agency, shall visit the site as necessary to fulfill its obligations to the Agency for inspection services, if any, and, at a minimum, to assure conformance with the A/E's design as shown in the Contract Documents and to observe the progress and quality of the various components of the Contractor's Work. The A/E shall: (1) keep the Agency informed about the progress and quality of the Work completed; (2) endeavor to guard the Agency against defects and deficiencies in the Work; and (3) determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents.
- 3.34 *After the word "...of..." insert the words "...the Work completed and correlated with the..." in Subparagraph 4.2.5.*
- 3.35 *Delete Subparagraph 4.2.11 and substitute the following:*
4.2.11 The A/E will, in the first instance, interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Agency or Contractor. Upon receipt of such request, the A/E shall promptly notify the non-requesting party in writing of the details of such request. The A/E's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the A/E shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the A/E to furnish such interpretations until fourteen (14) days after written request is made for them.
4.2.11.1 Subject to review pursuant to Paragraphs 4.3, 4.4 and 4.5, as appropriate, the Contractor shall proceed diligently with performance of the Contract in accordance with the A/E's written interpretations or decisions and the Agency shall continue to make payments in accordance with the Contract Documents.

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- 3.36 *In the first sentence of Subparagraph 4.2.12 change "...intent of..." to "...design as indicated in...".*
Add the following to Subparagraph 4.2.12:
The A/E's interpretations and initial decisions may be, but need not be, accorded any deference in any review conducted under the terms of the Contract or in law. Any such review shall be *de novo*.
- 3.37 *Add the following Subparagraph 4.2.14:*
4.2.14 In the Specifications or on the Drawings, where the words "as directed," "as required," "as approved," "as permitted" or words of like effect are used, it is to be understood that direction, requirement, approval or permission of the A/E is intended. Similar words, such as "approved," "acceptable," "satisfactory," or words of like import mean approved by, acceptable to, or satisfactory to the A/E.
- 3.38 *Delete the words "...or interpretation..." from the first sentence of Subparagraph 4.3.1.*
Delete the words "...and matters in question..." from the second sentence of Subparagraph 4.3.1.
Insert the following after the second sentence of Subparagraph 4.3.1:
A voucher, invoice, payment application or other routine request for payment that is not in dispute when submitted is not a Claim under this definition.
- 3.39 *Delete the first sentence of Subparagraph 4.3.2 and substitute the following:*
Time Limits for Filing Claims. Claims by either party arising prior to the date final payment is due must be initiated within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later, except as stated for adverse weather days in Clause 4.3.7.2.
Add the following to Subparagraph 4.3.2:
By failing to give written notice of a Claim within the time required by this Subparagraph, a party expressly waives its claim.
- 3.40 *After the word "...Claim..." in the first sentence of Subparagraph 4.3.3, insert "...including any administrative review allowed under Paragraph 4.5...".*
- 3.41 *In SubClause (2) of Subparagraph 4.3.4, change the words "...which differ materially..." to "...that existed at the time of bidding and that differ materially...".*
Add the following Clause to Subparagraph 4.3.4:
4.3.4.1 Any adjustment, including reasonable overhead and profit, in the Contract Sum, or to the Contract Time made pursuant to this Subparagraph shall be determined in accordance with Paragraphs 7.5 and 4.3.7 of this Contract, respectively.
- 3.42 *Add the following to Subparagraph 4.3.7:*
Claims for an increase in the Contract Time shall be based on one additional calendar day for each full calendar day that the Contractor is prevented from working.
- 3.43 *Add the following Subclauses to Clause 4.3.7.2:*
(1) Claims for adverse weather shall be based on actual weather conditions at the job site or other place of performance of the Work, as documented in the Contractor's job site log.
(2) For the purpose of this Contract, a total of five (5) calendar days per calendar month (non-cumulative) shall be anticipated as "adverse weather" at the job site, and such time will not be considered justification for an extension of time. If, in any month, adverse weather develops beyond the five (5) days, the Contractor shall be allowed to claim additional days to compensate for the excess weather delays only to the extent of the impact on the approved construction schedule. The remedy for this condition is for an extension of time only, not money.
(3) The Contractor shall submit monthly with their pay application all claims for adverse weather conditions that occurred during the previous month. The A/E shall review each monthly submittal in accordance with Paragraph 4.4 and inform the Contractor and the Agency promptly of its evaluation. Approved days shall be included in the next Change Order issued by the A/E. Adverse weather conditions not claimed within the time limits of this Subparagraph shall be considered to be waived by the Contractor. Claims will not be allowed for adverse weather days that occur after the scheduled (original or adjusted) date of Substantial Completion.
- 3.44 *Delete Subparagraph 4.3.9 and substitute the following:*
4.3.9 Quantity Variations. If the quantity of a unit-priced item in this Contract is an estimated quantity and the actual quantity of the unit-priced item varies more than fifteen (15) percent above or below the estimated quantity, an adjustment, including overhead and profit, in the Contract Sum shall be made upon demand of either party. The adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below

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85 percent of the estimated quantity. Any adjustment in the Contract Sum made pursuant to this Subparagraph shall be determined in accordance with Paragraph 7.5. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, as set forth in Subparagraph 4.3.7. Pursuant to Paragraph 13.13, the A/E shall determine the actual quantities of a unit-priced item used by the Contractor.

3.45 Delete Subparagraph 4.3.10 in its entirety and substitute the following:

4.3.10 CLAIMS FOR LISTED DAMAGES.

Notwithstanding any other provision of the Contract Documents, including Subparagraph 1.2.1, but subject to a duty of good faith and fair dealing (S.C. Code Ann §11-35-30), the Contractor and Agency waive Claims against each other for Listed Damages arising out of or relating to this Contract. The Listed Damages are:

4.3.10.1 Damages incurred by the Agency for rental expenses, for losses of use prior to Final Completion, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and for attorney's fees, insurance and interest (excluding post-judgment); and,

4.3.10.2 Damages incurred by the Contractor for principal office expenses and overhead, including, but not limited to, the compensation of personnel stationed there, rent, utilities and office equipment; for losses of financing, business and reputation; for loss of profit except anticipated profit arising directly from the Work; and for attorney's fees, insurance and interest (excluding post-judgment)

4.3.10.3 This mutual waiver is applicable, without limitation, to all Listed Damages due to either party's termination in accordance with Article 14. Nothing contained in this Subparagraph 4.3.10 shall be deemed to preclude an award of liquidated damages (including Listed Damages) when applicable, in accordance with the requirements of the Contract Documents. This Subparagraph does not apply to Paragraph 3.18.

3.46 Insert the following Subparagraph 4.3.11:

4.3.11 Waiver of Claims Against the A/E. Notwithstanding any other provision of the Contract Documents (including paragraph 1.2.1), but subject to a duty of good faith and fair dealing, the Contractor waives all claims against both the A/E and any other design professionals who provide design and/or project management services to the Agency, either directly or as independent contractors/subcontractors to the A/E, for Listed Damages arising out of or relating to this Contract. The Listed Damages are damages incurred by the Contractor for principal office expenses and overhead (including, but not limited to, the compensation of personnel stationed there, rent, utilities, and office equipment), for losses of financing, business and reputation, for loss of profit other than anticipated profits arising directly from the Work, and for attorney's fees, insurance, and interest (excluding post-judgment).

3.47 Delete Subparagraph 4.4.1 and substitute the following:

4.4.1 DECISIONS OF THE A/E. Claims, including those alleging an error or omission by the A/E, shall be referred initially to the A/E for decision. An initial decision by the A/E shall be required as a condition precedent to resolution (pursuant to Paragraph 4.5) of all claims between the Contractor and Agency arising prior to the date Final Payment is due, unless thirty (30) days shall have passed after the Claim has been referred to the A/E, with no decision by the A/E. The A/E will not decide disputes between the Contractor and persons or entities other than the Agency.

3.48 Delete Subparagraph 4.4.3 in its entirety.

3.49 Add the words "...in accordance with Subparagraph 4.4.5..." at the end of Subparagraph 4.4.4.

3.50 Insert the following after the first sentence of Subparagraph 4.4.5:

The A/E's initial decision will be delivered to the parties within two weeks of receipt of any response or supporting data requested pursuant to Subparagraph 4.4.4, or within such longer period as may be mutually agreeable to the parties. If the A/E's initial decision is accepted by the parties, the A/E shall prepare a Change Order with appropriate supporting documentation for the review and approval of the parties and the OSE.

Delete the words "...mediation and arbitration..." from the second sentence of Subparagraph 4.4.5 and substitute "...resolution pursuant to Paragraph 4.5. Any review of the A/E's written decision or determination shall be de novo."

3.51 Delete Subparagraph 4.4.6 in its entirety and substitute the following:

4.4.6 If the A/E renders its initial decision after proceedings pursuant to Paragraph 4.5 have been initiated, such decision may be entered as evidence, but shall not supersede such proceedings unless the decision is acceptable to all parties concerned

3.52 Delete Subparagraph 4.4.8 in its entirety.

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3.53 Delete Paragraph 4.5 in its entirety and substitute the following:

4.5 DISPUTE RESOLUTION

4.5.1 Without limiting Subparagraph 4.5.2, any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the A/E or thirty (30) days after submission of the Claim to the A/E, be subject to resolution pursuant to Subparagraph 4.5.2.

4.5.2 Contractor consents to be governed by Title 11, Chapter 35 of the South Carolina Code of Laws, as amended, and agrees that it applies to and governs the Agreement. Contractor waives any objection it may have now or hereafter to the administrative process required by Title 11, Chapter 35, Article 17. To the extent that Article 17, by its own terms, does not govern a claim or controversy between the parties, Contractor agrees that any suit, action or proceeding arising out of or relating to the Agreement shall be instituted and maintained only in a state or federal court located in Richland County, State of South Carolina. Contractor agrees that any act by the State regarding the Agreement is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the Contract Documents.

4.5.3 Any administrative review of any determination, certification or other decision by the A/E shall be *de novo*.

3.54 Delete Paragraph 4.6 in its entirety.

3.55 In the first sentence of Subparagraph 5.2.1 change "...award of the Contract..." to "...posting of the 'Notice of Intent to Award' of the Contract, or a Request for Substitution pursuant to Subparagraph 5.2.4..."

In the second sentence of Subparagraph 5.2.1, delete the words "...or the Architect".

In the third sentence of Subparagraph 5.2.1, delete the words "...or Architect..."

3.56 In the first sentence of Subparagraph 5.2.2, delete the words "...or Architect..."

3.57 In the first sentence of Subparagraph 5.2.3, delete the words "...or Architect..." in both instances where they appear.

3.58 In Subparagraph 5.2.4, delete the words "...or Architect..."

Add the following sentence to Subparagraph 5.2.4:

The Contractor's Request for Substitution must be made to the Agency in writing, accompanied by supporting information.

3.59 Add the following Subparagraph 5.2.5:

5.2.5 To the extent it applies, the substitution of a subcontractor is governed by Title 11, Chapter 35, paragraph 3020(2)(b) of the South Carolina Code of Laws, as amended ("statute"). Paragraph 5.2 shall be construed as complementary to the statute.

3.60 Delete all words after "...prejudice such rights ..." in the second sentence of Subparagraph 5.3.1.

3.61 Add the following Subparagraph 5.3.2:

5.3.2 Without limitation on the generality of the foregoing, each Subcontract agreement and each Sub-subcontract agreement shall include, and shall be deemed to include, the following:

5.3.2.1 An agreement that the Agency is a third-party beneficiary of the Subcontract (or Sub-subcontract), entitled to enforce any rights thereunder for its benefit, and that the Agency shall have the same rights and remedies against the Subcontractor (or Sub-subcontractor) as the Contractor (or Subcontractor) has, including but not limited to the right to be compensated for any loss, expense, or damage of any nature whatsoever incurred by the Agency resulting from any breach of representations and warranties, expressed or implied, if any, arising out of the agreement and any error, omission, or negligence of the Subcontractor (or Sub-subcontractor) in the performance of any of its obligations under the agreement; and,

5.3.2.2 A requirement that the Subcontractor (or Sub-subcontractor) promptly disclose to the Contractor (or Subcontractor) any defect, omission, error, or deficiency in the Contract Documents or in the Work of which it has, or should have had, knowledge; and,

5.3.2.3 The following Paragraphs, or Subparagraphs as appropriate, of the Conditions of the Contract: 3.2, 3.5.1, 3.18, 4.3.10, 5.4, 13.1.1, 13.1.3, 14.3 and 14.4; and,

5.3.2.4 Paragraphs 4.4, 4.5 and 4.6 of A201-1997 *Conditions of the Contract* as originally issued by the American Institute of Architects and without the amendments included in this Article 12.

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- 3.62 *Insert the following Subparagraph 5.3.3:*
5.3.3 The Contractor shall assure the Agency, by affidavit or in such other manner as the Agency may approve, that all agreements between the Contractor and its Subcontractor incorporate the provisions of Subparagraph 5.3.1 as necessary to preserve and protect the rights of the Agency and the A/E under the Contract Documents with respect to the work to be performed by Subcontractors so that the subcontracting thereof will not prejudice such rights.
- 3.63 *Insert the following Subparagraph 5.3.4:*
5.3.4 Upon request, the Contractor shall provide to the Agency copies of all executed or issued subcontracts, purchase orders and other documents related to the Work.
- 3.64 *Insert the following new Clause to Subparagraph 5.4.1:*
5.4.1.3 Subcontractors assigned to the Agency agree to perform assigned portions of the Work in accordance with the Contract Documents.
- 3.65 *Add the following sentence to the end of Subparagraph 5.4.2:*
The equitable adjustment shall be limited to direct costs.
- 3.66 *Insert the following new Subparagraph 5.4.3:*
5.4.3 Each subcontract shall specifically provide that the Agency shall only be responsible to the Subcontractor for those obligations of the Contractor that accrue subsequent to the Agency's exercise of any rights under this conditional assignment.
- 3.67 *Delete Subparagraph 6.1.4 in its entirety.*
- 3.68 *Add the following Clauses to Subparagraph 7.2.1:*
7.2.1.4 The Contractor shall not proceed with the Work of the Change Order until the Change Order is approved the Agency. If the amount of the Change Order exceeds the limit of the Agency's Construction Change Order Certification, it must be approved by the State Engineer before any work is performed. The amount of the Agency's certification authority is set forth in the Agreement. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.2 shall be determined in accordance with Paragraph 7.5 of this Contract.
7.2.1.5 All Change Orders shall be submitted on Form SE-480 "Construction Change Order" with appropriate documentation attached.
- 3.69 *Delete Subparagraph 7.2.2 in its entirety.*
- 3.70 *Add the following Subparagraph 7.2.3:*
7.2.3 Agreement on any Change Order shall constitute a release by the Contractor of the Agency for any and all liability under this Contract attributable to such facts or circumstances giving rise to the Change Order.
- 3.71 *Delete the first sentence of Subparagraph 7.3.1 and substitute the following:*
A Construction Change Directive is a written order which directs a change in the Work and states a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both, and which is prepared by the A/E on AIA Document C714 and signed by the A/E, the Contractor, if it agrees with the terms of the Directive, and the Agency.
- 3.72 *Delete Subparagraph 7.3.3 and substitute the following:*
7.3.3 Any adjustment in the Contract Sum, including reasonable overhead and profit made pursuant to Paragraph 7.3 shall be determined in accordance with Paragraph 7.5 of this Contract.
- 3.73 *Delete Subparagraph 7.3.6 and substitute the following:*
7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the A/E as provided in Clause 7.5.1.5, on the basis of reasonable expenditures and savings to those performing the Work attributable to the change, including allowances for reasonable overhead and profit.
- 3.74 *Delete the Subparagraph 7.3.7 in its entirety.*
- 3.75 *In the first sentence of Subparagraph 7.3.8, change the word "...Payment ..." to "...Payment." and delete the remainder of the sentence.*
- 3.76 *Insert the following Subparagraph 7.3.10:*
7.3.10 If the Contractor defaults or neglects to execute a Change Directive, the Agency may carry out the Work in accordance with Paragraph 2.4 and Article 6.

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3.77 *Insert the following Paragraph 7.5:*

7.5 PRICE ADJUSTMENTS

7.5.1 METHODS OF ADJUSTMENT. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.5 shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor.

7.5.1.1 by agreement on a fixed price adjustment;

7.5.1.2 by unit prices specified in the Contract or subsequently agreed upon;

7.5.1.3 by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

7.5.1.4 in such other manner as the parties may mutually agree; or,

7.5.1.5 in the absence of agreement by the parties, through a unilateral initial determination by the A/E of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the A/E in accordance with Clause 7.5.3.2, and subject to review under the provisions of Paragraph 4.5 of this Contract.

7.5.2 FINAL AGREEMENT. When any adjustment in the Contract Sum made pursuant to clauses in this Contract becomes final (e.g., by agreement or dispute resolution), the adjustment shall be computed and documented on a Change Order.

7.5.3 DOCUMENTATION OF COST REASONABLENESS

7.5.3.1 CONTRACTOR'S CHANGE ORDER PROPOSAL. The Contractor shall submit a written proposal for review by the A/E and the Agency. The proposal shall be submitted to the Agency's representative within the time limits specified in Subparagraph 4.3.2. All costs claimed by the Contractor shall be justifiable compared with prevailing industry standards, as adjusted for local cost conditions. Costs shall be properly itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent performance or as soon thereafter as practicable.

7.5.3.2 CONSTRUCTION CHANGE DIRECTIVES. For a Construction Change Directive wherein the proposed method of compensation is actual costs, and pending the collection and evaluation of actual costs as required by Clause 7.5.1.3, the Contractor shall estimate the value of the changed work. The Contractor shall itemize the estimated cost into building components and shall use the labor, material and equipment unit direct costs as listed in the most current issue of the Construction Cost Data Book most applicable to the nature of the changed work, as published by R. S. Means, with a cost index adjusted for the project locale. The Contractor shall also be permitted to add overhead and profit as shown in Subparagraph 7.5.4. Where the Contractor does not properly itemize the proposed costs as requested, the A/E shall provide the Agency with the itemization and this amount shall be the initial basis for compensation under Subparagraph

7.3.8. Upon conversion of the Construction Change Directive to a Change Order, the A/E's cost for providing this itemization shall be deducted from the final adjustment in the Contract Sum as described in Clause 7.3.9.

7.5.4 AGREED OVERHEAD AND PROFIT RATES

7.5.4.1 For any adjustment to the Contract Sum for which overhead and profit may be recovered, other than those made pursuant to Subparagraph 4.3.9, the Contractor agrees to charge and accept, as full payment for overhead and profit, the following percentages of costs attributable to the change in the Work. The percentages cited below shall be considered to include all indirect costs including, but not limited to: field and office managers, supervisors and assistants, incidental job burdens, small tools, and general overhead allocations. The allowable percentages for overhead and profit are as follows:

- (1) To the Contractor on work performed by his own forces, 17% of the cost;
- (2) To each Subcontractor involved, on work performed by their own forces, 17% of the cost;
- (3) For the Contractor, for work performed by his subcontractors, 10% of the amount due the Subcontractor.

7.5.4.2 Using the percentages stated in Clause 7.5.4.1, any adjustment to the Contract Sum for deleted work shall include any overhead and profit attributable to the cost for the deleted Work.

7.5.4.3 If the Contractor initiates a Change Order proposal and the Agency is not obligated to pay for all or any part of the proposal, then the Contractor shall be responsible for any A/E's fees to evaluate and process that Change Order proposal. Compensation shall be based on the Agency's contract with the A/E and the rates for Additional Services contained therein, and shall be withheld from the final payment to the Contractor.

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7.5.5 COST OR PRICING DATA

7.5.5.1 The Contractor shall submit cost or pricing data for any element of changed work (other than Unit Price Work) which exceeds \$25,000.00, and shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of the pricing. This data shall be itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent Work, or as soon thereafter as practicable, and shall be justifiably compared with prevailing industry standards. As requested by the A/E or the Agency, the Contractor's submittal shall provide an itemized breakdown of all increases and decreases in the Contract for the Contractor and each subcontractor (at any tier) in at least the following detail: material, equipment and supply quantities and costs; direct labor hours and rates for each trade; the associated FICA, FUTA, SUTA, and Worker's Compensation Insurance; equipment hours and rates, and costs of premiums for bonds and insurance, permit fees and sales, use or similar taxes related to the Work.

7.5.5.2 Any Change Order or Change Directive for which certification is required shall contain a provision that the price to the Agency, including profit or fee, shall be adjusted to exclude any significant sums by which the Agency finds that such price was increased because the cost or pricing data furnished by the Contractor was inaccurate, incomplete or not current as of the date agreed upon between parties. Notwithstanding Subparagraph 9.10.4, such adjustments may be made after final payment to the Contractor.

- 3.78 *Delete Subparagraph 8.1.2 and substitute the following:*

8.1.2 The Date of Commencement of the Work is the date established in the SE-390, "Notice to Proceed." The date shall not be postponed by the failure to act of the Contractor or of persons or entities for which the Contractor is responsible.

- 3.79 *Delete the last sentence of Subparagraph 8.2.2.*

- 3.80 *Add the following Subparagraph 8.2.4:*

8.2.4 Failure by the Contractor to commence actual physical work on the project within seven (7) days from the Date of Commencement as established in the Notice to Proceed, will entitle the Agency to consider the Contractor in substantial breach of its obligations under this Contract. In this event, the Agency may withdraw the Notice to Proceed and terminate the Contract in accordance with the Contract Documents.

- 3.81 *Change "...mediation and arbitration..." to "...dispute resolution..." in Subparagraph 8.3.1.*

- 3.82 *Insert the following new Subparagraph 8.3.4:*

8.3.4 The Contractor shall be permitted an adjustment in the Contract Sum, determined in accordance with Paragraph 7.5, only if the Delays, either individually or taken in the aggregate, cause the Contract Time to be increased by more than seven (7) days.

- 3.83 *Insert the following new subparagraph 9.2.2:*

9.2.2 As requested by the A/E, the Contractor and each Subcontractor shall prepare a trade payment breakdown for the Work for which each is responsible, such breakdown being submitted on a uniform standardized format approved by the A/E and Agency. The breakdown shall be divided in detail sufficient to exhibit areas, floors, and/or sections of the Work, and/or by convenient units and shall be updated as required by either the Agency or the A/E as necessary to reflect:

9.2.2.1 the description of Work (listing labor and material separately);

9.2.2.2 the total value;

9.2.2.3 the percent and value of the Work completed to date;

9.2.2.4 the percent and value of previous amounts billed; the current percent completed and amount billed; and,

9.2.2.5 the current percent completed and amount billed.

Any schedule of values or trade breakdown that fails to include sufficient detail, is unbalanced, or exhibits "front-loading" of the value of the Work, shall be rejected. If either the schedule of values or trade breakdown had been initially approved and subsequently used, but later was found improper for any reason, then sufficient funds shall be withheld from future Applications for Payment to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.

- 3.84 *In the first sentence of Subparagraph 9.3.1 change "... ten days..." to "...twenty-one (21) days...".*

Add the following sentence to Subparagraph 9.3.1:

The Contractor's Application for Payment shall be in a form acceptable to the Agency. The A/E will authorize, as provided in Paragraph 9.4 and until the final pay request, monthly payments equal to ninety-six and one-half percent (96½%) of the portion of the Contract Sum properly allocable to labor, material and equipment incorporated in the Work, and allocable to material and equipment suitably stored.

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- 3.85 *Add the following to Subparagraph 9.3.2:*
Rental equipment such as, but not limited to, mobile equipment, pans, forms, scaffolding, compressors, etc., shall not be considered material stored.
- 3.86 *Add the following Clauses to Subparagraph 9.6.1:*
9.6.2.1 Contractor's attention is directed to §11-35-3030(4) of the SC Code of Laws, as amended, and the Manual concerning release of retained funds.
9.6.2.2 Contractor's attention is directed to Title 29, Chapter 7, SC Code of Laws, as amended, concerning laborers' liens.
9.6.2.3 Contractor shall properly disburse money received from all payments to all laborers, subcontractors or materialmen in accordance with Title 29, Chapters 6 and 7 of the SC Code of Laws, as amended.
- 3.87 *Delete Subparagraph 9.6.7 in its entirety.*
- 3.88 *Delete Subparagraph 9.7.1 and substitute the following:*
9.7.1 If (a) the A/E does not issue a Certificate for Payment to the Agency, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or (b) the Agency does not pay the Contractor within seven (7) days after the date established in the Contract Documents, the amount of the Contractor's Application for Payment certified by the A/E, or (c) the Agency does not pay the Contractor the amount awarded by a dispute resolution order within the time limit established by such order, or within seven (7) days if no time limit is stated in such order, then the Contractor may, upon seven (7) additional days' written notice to the Agency and A/E, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and startup, which shall be accomplished as provided in Paragraph 7.5. As used in this Subparagraph, the phrase "dispute resolution order" includes any decision rendered pursuant to Paragraph 4.4.
- 3.89 *Add the following Clause to Subparagraph 9.8.2:*
9.8.2.1 The Contractor's list shall be in writing and attached to the "Contractor's written Request for Full or Partial Substantial Completion inspection. The request shall be submitted at least ten (10) days in advance of the proposed date of inspection and shall be forwarded through the A/E, who will attach its written endorsement as to whether or not it concurs with the Contractor's statement that the Work will be ready for inspection and testing on the date given. The A/E's endorsement is a convenience to the Agency only and shall not relieve the Contractor of its responsibility in the matter, nor shall the A/E's endorsement be deemed to be evidence that the Work was substantially complete and ready for inspection and testing. In the event that the A/E does not concur with the Contractor's statement, the A/E shall inform the Contractor of the basis for the A/E's non-concurrence. The Contractor may then, at its sole option, (1) defer the inspection; or, (2) request the inspection be performed in accordance with Subparagraph 9.8.3.
- 3.90 *Add the following Clauses to Subparagraph 9.8.3:*
9.8.3.1 Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor, Agency, the OSE and the A/E.
9.8.3.2 The inspection shall include a demonstration by the Contractor that all equipment, systems and operable components of the Work function properly and in accordance with the Contract Documents. The Contractor shall furnish access for the inspection and testing as provided in this Contract. The inspection and testing shall determine whether Substantial Completion has been accomplished and shall result in the A/E's issuance of a written list of Unfinished Work and Defective Work, commonly referred to as a "punch list", each item of which must be finished and corrected prior to Final Completion.
9.8.3.3 The A/E and its Consultants shall conduct all Substantial Completion inspections. The Agency may elect to have other persons of its choosing also participate in the inspections. Representatives of the State Fire Marshal's Office, the Office of State Engineer and other authorities having jurisdiction may be present, at their sole discretion, at the Substantial Completion inspection or otherwise inspect the completed Work and advise the Agency whether the Work meets their respective requirements.
9.8.3.4 If the inspection discloses any item which is not in accordance with the requirements of the Contract Documents and will prevent the Agency from occupying or utilizing the Work for its intended use, the Contractor shall complete or correct such item upon notification by the A/E. The Contractor shall then submit a request for a follow-up inspection by the A/E to determine Substantial Completion.
9.8.3.5 The Contractor shall proceed promptly and diligently to complete and correct items on the list of Unfinished or Defective Work. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
9.8.3.6 If more than one Substantial Completion inspection is required, the Contractor shall reimburse the Agency for all costs of reinspection or, at the Agency's option, the costs may be deducted from payments due to the Contractor.

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Delete the last sentence of Subparagraph 9.8.5 and add the following Clauses:

9.8.5.1 Upon such acceptance of Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the A/E, the Agency shall make payment for such Work or portion thereof as provided in the Contract Documents. The balance payable shall include the retainage of three and one half percent (3.5%) of the Contract Sum, less any retainage released under conditions of Subparagraph 9.6.2, plus an amount equal to the cost to complete or to correct, as determined by the A/E of the Uncompleted or Defective Work, plus the full amount of Liquidated Damages, if any. Retainage shall continue until Final Completion and Final Payment.

9.8.5.2 Notwithstanding the foregoing, the payment of retainage shall be consistent with §11-35-3030(4) of the SC Code of Laws, as amended.

3.91 *Add the following Clauses to Subparagraph 9.10.1:*

9.10.1.1 Final Completion shall be achieved no later than thirty (30) days after Substantial Completion unless otherwise stated in the Contract Documents or modified by a Change Order. Failure of the Contractor to achieve Final Completion within the time allowed under this Subparagraph shall entitle to Agency to consider the Contractor in substantial breach of its obligations under this Contract.

9.10.1.2 The Contractor shall notify the Agency, in writing, of the date when the Work has reached or will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least ten (10) days in advance of said date and shall be forwarded through the A/E, who will attach its endorsement as to whether or not it concurs in the Contractor's statement that the Work will be ready for inspection and testing on the date stated. The A/E's endorsement is a convenience to the Agency only and shall not relieve the Contractor of its responsibility in the matter, nor shall the A/E's endorsement be deemed to be evidence that the Work was finally complete and ready for inspection and testing. In the event that the A/E does not concur with the Contractor's statement, the A/E shall inform the Contractor of the basis for the A/E's non-concurrence. The Contractor may then, at its sole option, (1) defer the inspection; or, (2) request the inspection be performed in accordance with this Subparagraph. The final inspection and testing shall be conducted in the same manner as the inspection for Substantial Completion, including, but not limited to, the requirements of Clauses 9.8.3.3, 9.8.3.4, 9.8.3.5 and 9.8.3.6 of this Contract.

9.10.1.3 Representatives of the State Fire Marshal's Office, the Office of State Engineer and other authorities having jurisdiction may be present at the Final Completion inspection or otherwise inspect the completed Work and advise the Agency whether the Work meets their respective requirements for the Project.

9.10.1.4 The Contractor shall then submit a request for a follow-up inspection to determine Final Completion. If more than one Final Completion inspection is required, the Contractor shall reimburse the Agency for all costs of reinspection or, at the Agency's option, the costs may be deducted from payments otherwise due to the Contractor.

9.10.1.5 Approval of Work at or as a result of any inspection required herein shall not release the Contractor or its surety from responsibility for complying with the Contract.

3.92 *Add the following Clause to Subparagraph 9.10.4:*

9.10.4.4 Faulty or defective Work appearing after the date of Substantial Completion.

3.93 *In Subparagraph 9.10.5, after the word "...those..." insert the phrase "...specific claims in stated amounts that have been..."*

3.94 *In Subparagraph 10.3.1 after the word "...persons ..." , insert the words "...or serious losses to real or personal property..."*

Add the following Clause to Subparagraph 10.3.1:

10.3.1.1 The Agency and Contractor hereby agree that this Paragraph shall apply only to hazardous, toxic or radioactive materials or substances subject to the regulations of agencies having jurisdiction, such as, but not limited to, the S.C. Department of Health and Environmental Control (SCDHEC), the U.S. Environmental Protection Agency (USEPA) and the U.S. Nuclear Regulatory Commission (USNRC).

3.95 *Add the following Clauses to Subparagraph 10.3.2:*

10.3.2.1 Any adjustment in the Contract Sum, including reasonable overhead and profit, made pursuant to this Subparagraph shall be determined in accordance with Paragraph 7.5 of this Contract.

10.3.2.2 The Work in the affected area shall be resumed immediately following the occurrence of any of the following events: (a) the Agency causes remedial work to be performed that results in the absence of materials or substances; or (b) the Agency and the Contractor, by written agreement, decide to resume performance of the Work; or (c) the Work may safely and lawfully proceed, as determined by an appropriate governmental authority or as evidenced by a written report to both the Agency and the Contractor, which is prepared by an environmental engineer reasonably satisfactory to both the Agency and the Contractor.

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10.3.2.3 For the purposes of this Contract, the term "rendered harmless" shall be interpreted to mean that measured levels of verified hazardous, toxic or radioactive materials or substances are less than the applicable standards established by authorities having jurisdiction. In no event, however, shall the Agency have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible, unless such materials or substances were expressly required by the Contract Documents. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or radioactive, or made up of any items that are hazardous, toxic, or radioactive.

3.96 *Delete Subparagraph 10.3.3 in its entirety.*

3.97 *Delete Paragraph 10.4 in its entirety.*

3.98 *Delete Paragraph 10.5 in its entirety.*

3.99 *Add the following to Subparagraph 10.6.1:*

Written notice of the emergency, including an estimate of cost and probable effect of delay on the progress of the Work, must be given by the Contractor to the A/E as soon as possible, but in no case more than ten (10) days after the start of the emergency.

3.100 *Change the second sentence of Subparagraph 11.1.2 to read:*

Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

Add the following Clauses to Subparagraph 11.1.2:

11.1.2.1 Liability Insurance shall include all major divisions of coverage and be on a Commercial basis including the following:

- (1) Premises - Operations.
- (2) Independent Contractor's Protective.
- (3) Products and Completed Operations.
- (4) Personal and Advertising Injury.
- (5) Contractual, including specified provision for Contractor's obligations under Paragraph 3.1.8.
- (6) Broad Form Property Damage including Completed Operations.
- (7) Owned, Non-Owned and Hired Motor Vehicles.

11.1.2.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than the following limits, or greater if required by law or other provisions of this Contract:

- (1) COMMERCIAL GENERAL LIABILITY:
 - (a) General Aggregate (per project) \$ 1,000,000
 - (b) Products/Completed Operations \$ 1,000,000
 - (c) Personal and Advertising Injury \$ 1,000,000
 - (d) Each Occurrence \$ 1,000,000
 - (e) Fire Damage (Any one fire) \$ 50,000
 - (f) Medical Expense (Any one person) \$ 5,000
- (2) BUSINESS AUTO LIABILITY (including All Owned, Non-Owned, and Hired Vehicles):
 - (a) Combined Single Limit \$ 1,000,000
 - OR
 - (b) Bodily Injury & Property Damage (each) \$ 750,000
- (3) WORKER'S COMPENSATION:
 - (a) State Statutory
 - (b) Employer's Liability \$100,000 Per Accident

\$500,000 Disease, Policy Limit
\$100,000 Disease, Each Employee

3.101 *Add the following Clause to Subparagraph 11.1.3:*

11.1.3.1 Certificates of Insurance shall be in the form of the latest edition of the ACORD 258 and shall be filed with the Agency prior to commencement of the Work. In addition to Certificates of Insurance, the Contractor shall supply a written endorsement to the Contractor's general liability insurance policy that names the Agency as an additional insured. The endorsement shall provide that the Contractor's liability insurance policy shall be primary, and that any liability insurance of the Agency shall be secondary and noncontributory.

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3.102 *Add the following Subparagraph 11.1.4:*

11.1.4 For informational purposes, the Contractor is advised that Worker's Compensation Insurance is required for all Owners and executive officers of entities incorporated in the State of South Carolina.

3.103 *Add the following Subparagraph 11.1.5:*

11.1.5 The Aggregate Limits of Insurance required by Subparagraph 11.1.2 shall apply, in total, to this Contract only. This shall be indicated on the insurance certificate or an attached policy amendment.

11.1.5.1 The insurance policies and Certificates of Insurance required by this Contract shall contain a provision that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy or evidenced by such Certificates of Insurance shall have effect unless the Agency has been given at least thirty (30) days' prior written notice. The Contractor shall provide a minimum of thirty (30) days written notice to the Agency of any proposed reduction of coverage limits, including every coverage limit identified in Subparagraph 11.1.2, or any substitution of insurance carriers.

11.1.5.2 In no event shall any failure of the Agency to receive certified copies or certificates of policies required under this Article or to demand receipt of such certified copies or certificates prior to the Contractor's commencing the Work be construed as a waiver by the Agency of the Contractor's obligations to obtain insurance pursuant to this Article 11. The obligation to procure and maintain any insurance required by this Article 11 is a separate responsibility of the Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies.

3.104 *Delete Paragraph 11.3 in its entirety.*

3.105 *Delete the first sentence of Subparagraph 11.4.1 and in its place insert the following:*

"Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles."

Add the following sentence to the end of Subparagraph 11.4.1:

"The Owner shall be a named insured on the policy."

Delete Subparagraph 11.4.1.2.

Delete Subparagraph 11.4.1.3

Delete Subparagraph 11.4.2, and in its place insert the following:

"11.4.2 **Boiler and Machinery Insurance.** The Contractor shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall both be named insureds."

Delete Subparagraph 11.4.3.

Delete Subparagraph 11.4.4 and in its place insert the following:

"11.4.4 If the Owner requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall be charged to the Owner by appropriate Change Order."

Delete Subparagraph 11.4.5

Delete Subparagraph 11.4.6 and in its place insert the following:

Delete Subparagraph 11.4.6 and in its place insert the following:

"11.4.6 Before an exposure to loss may occur, the Contractor shall file with the Owner a copy of each policy that includes insurance coverage required by this Paragraph 11.4. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Owner."

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Delete the first full sentence Subparagraph 11.4.7(after the words "Waivers of Subrogation.") and in its place insert the following:

"The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent the property insurance provided by the Contractor pursuant to this Article 11.4 covers and pays for the damage, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary."

Delete Subparagraph 11.4.8 and in its place insert the following:

"11.4.8 In the event of a loss, the Contractor shall replace the damaged property and shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payment to their Sub-subcontractors in similar manner."

Delete Subparagraph 11.4.9.

Delete Subparagraph 11.4.10.

3.106 Delete Subparagraph 11.5.1 and substitute the following:

11.5.1 If required as stated in the SE-310, the Contractor shall provide Performance and Labor and Material Payment Bonds, each in the amount of 100% of the Contract Sum.

11.5.1.1 The Surety shall have, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty". In addition, the Surety shall have a minimum "Best Financial Strength Category" of "Class V", and in no case less than five (5) times the contract amount.

11.5.1.2 The Performance Bond shall be written on Form SE-355, "Performance Bond" and the Payment Bond shall be written on Form SE-357, "Labor and Material Payment Bond", and both shall be made payable to the Agency.

11.5.1.3 The Performance and Labor and Material Payment Bonds shall:

- (1) be issued by a surety company licensed to do business in South Carolina; and,
- (2) be accompanied by a current power of attorney and certified by the attorney-in-fact who executes the bond on the behalf of the surety company; and,
- (3) remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer; and,
- (4) display the Surety's Bond Number. A rider including the following provisions shall be attached to each Bond stating that:
 - (a) The Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change or other modification of the Contract Documents. Any addition, alteration, change, extension of time, or other modification of the Contract Documents, or a forbearance on the part of either the Agency or the Contractor to the other, shall not release the Surety of its obligations hereunder, and notice to the Surety of such matters is hereby waived.
 - (b) The Surety agrees that it is obligated under the bonds to any successor, grantee, or assignee of the Agency.
- (5) Notwithstanding the foregoing, any bonds required by this Contract shall meet the requirements of the SC Code of Laws, as amended.

3.107 Add Subparagraph 11.5.3 as follows:

11.5.3 The Contractor shall furnish the required bonds to the Agency before execution of the Contract.

3.108 Add Subparagraph 11.5.4 as follows:

11.5.4 The Contractor shall keep the Surety informed of the progress of the Work, and, where necessary, obtain the Surety's consent to, or waiver of:

- 11.5.4.1 notices of changes in the Work;
- 11.5.4.2 requests for reduction or release of retention;
- 11.5.4.3 requests for final payment; and
- 11.5.4.4 any other item required by the Surety.

The Agency may, in the Agency's sole discretion, inform the Surety of the progress of the Work and obtain consents as necessary to protect the Agency's rights, interest, privileges, and benefits under and pursuant to any bond issued in connection with the Work.

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- 3.109 *Delete Subparagraph 12.1.1 and insert the following:*
12.1.1 If a portion of the Work is covered contrary to the requirements specifically expressed in the Contract Documents, including, inspections of work-in-progress required by all authorities having jurisdiction over the Project, then the portion of Work so covered shall, upon demand of the A/E or the authority having jurisdiction, be uncovered for observation and be replaced at the Contractor's expense without change in the Contract Time.
- 3.110 *Add the following to Clause 12.2.1.1:*
If, prior to the date of Substantial Completion, the Contractor, a Subcontractor, or anyone for whom either is responsible, uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to "like new" condition at no expense to the Agency.
- 3.111 *In the third sentence of Clause 12.2.2.1, delete the phrase "...and to make a claim for breach of warranty..."*.
- 3.112 *At the end of Clause 12.2.2.3, add the phrase "...unless otherwise provided in the Contract Documents."*
- 3.113 *Delete Subparagraph 13.1.1 and substitute the following:*
13.1.1 The Contract shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of or relating to the Contract shall be governed by the laws of the State of South Carolina.
13.1.2 As required by §10-1-180 of the SC Code of Laws, as amended, the Office of State Engineer shall determine the enforcement and interpretation of all building codes and referenced standards on state buildings. The Contractor shall refer any questions, comments or directives from local officials to the Agency and the Office of State Engineer for resolution.
- 3.114 *In the second sentence of Subparagraph 13.2.1, delete the phrase "Except as provided in Subparagraph 13.2.2..." and capitalize "...neither..."*.
- 3.115 *Delete Subparagraph 13.2.2 in its entirety.*
- 3.116 *Delete Subparagraph 13.3.1 and substitute the following:*
13.3.1 Unless otherwise permitted herein, all notices contemplated by the Contract Documents shall be in writing and shall be deemed duly given:
13.3.1.1 upon actual delivery to the person identified in the A101, if delivery by hand; or,
13.3.1.2 upon receipt by the transmitting party of confirmation or reply, if delivery is by facsimile, telex or telegram;
or,
13.3.1.3 upon receipt by the person identified in the A101, if delivery is by deposit into the United States mail, certified mail, return receipt requested.
- 3.117 *Add Subparagraph 13.3.2 as follows:*
13.3.2 Each such notice shall be sent to the respective party at the address provided in the A101, or to any other address as the respective party may designate by notice delivered pursuant hereto.
- 3.118 *Add Subparagraph 13.4.3 as follows:*
13.4.3 Termination of the Contract by either party for any reason shall not relieve the parties of any obligation theretofore accorded under this Contract. Notwithstanding Subparagraph 9.10.4, and without limiting the foregoing sentence, the following provisions (as amended) of the Contract Documents shall survive termination for whatever cause, expiration or completion:
1.6 Ownership and Use of Drawings, Specifications and Other Instruments of Service;
3.5 Warranty
3.17 Royalties, Patents and Copyrights
3.18 Indemnification
3.10 Waiver of Listed Damages
3.11 Waiver of Claims Against the A/E
4.5 Dispute Resolution
7.5.5 Cost or Pricing Data
11.1 Contractor's Liability Insurance
11.5 Performance and Payment Bond
12.2 Correction of Work
13.1 Governing Law
13.4 Rights and Remedies
13.12 Retention and Audit of Contractor's Records

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3.119 Add the following to Subparagraph 13.5.5:

The Contractor shall give the A/E timely notice in advance of tests, inspections or approvals.

3.120 Delete Subparagraph 13.6.1 and substitute the following:

13.6.1 Payments made under the Contract Documents are subject to the requirements of Title 29, Chapter 6 of the South Carolina Code of Laws, as amended.

3.121 Delete Paragraph 13.7 in its entirety.

3.122 Add the following Paragraph 13.9:

13.9 DRUG-FREE WORKPLACE

The Contractor certifies to the Agency that Contractor will provide a Drug-Free Workplace, as required by Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

3.123 Add the following Paragraph 13.10:

13.10 CANCELLATION AFTER AWARD

Pursuant to §11-35-1520 of the SC Code of Laws, as amended, and South Carolina Regulation 19-445.2085, this Contract may be canceled after award, but prior to issuance of the Notice to Proceed. In such event, the Contractor shall recover, as its sole remedy, its reasonable bid preparation costs.

3.124 Add the following Paragraph 13.11:

13.11 BANKRUPTCY

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Agency. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

3.125 Add the following Paragraph 3.12:

13.12 RETENTION AND AUDIT OF CONTRACTOR'S RECORDS

The Contractor and all subcontractors shall comply with all applicable obligations of §11-35-2220 of the SC Code of Laws, as amended. Accordingly, the Agency shall be entitled, at reasonable times and places, to audit the books and records of both the Contractor and any subcontractor who has submitted cost or pricing data pursuant to either this Contract or to §11-35-1830 to the extent that such books and records relate to such cost or pricing data. If any cost or pricing data is required for this Contract or any Modification, the Contractor and any subcontractor shall maintain such books and records that relate to such cost or pricing data for three (3) years from the date of final payment under the Contract, unless a shorter period is otherwise authorized in writing by the Chief Procurement Officer; provided, however, that such records shall be retained for additional periods of time beyond this three-year period upon request of the Chief Procurement Officer. If this Contract or any Modification (other than a firm fixed price contract) is negotiated, the Agency shall be entitled to audit the books and records of the Contractor and any subcontractor to the extent that such books and records relate to the performance of the Contract or any Modification. Such books and records shall be maintained by the Contractor for a period of three years from the date of final payment under the prime contract and by any subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the Chief Procurement Officer. As used in the paragraph, the phrase "Chief Procurement Officer" shall have the definition given that phrase in §11-35-310.

3.126 Add the following Subparagraph 13.13:

13.13 UNIT PRICE WORK

13.13.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the initial Contract Sum will be deemed to include an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as identified in the Contract. The estimated quantity for each item of Work represents the Agency's best estimate of the amount of each item to be required of the Contractor, but the amounts are not guaranteed, and are solely for the purpose of comparison of Bids and determining an initial Contract Sum. Determinations of the actual quantities and classifications of Unit Price Work performed by the Contractor will be made by the A/E as described below.

13.13.2 Subject to an adjustment pursuant to Subparagraph 4.3.9, each unit price will be deemed to include an amount considered by the Contractor to be adequate to cover the Contractor's total costs, including overhead and profit, for each separately identified item.

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13.13.3 The A/E will determine the actual quantities and classifications of Unit Price Work performed by the Contractor. The A/E will review with the Contractor its preliminary determinations on such matters before rendering a written decision or issuing a recommendation on the Contractor's Applications for Payment. The A/E's written decisions or recommendations will be final and binding on the Agency and the Contractor, except as modified by the A/E to reflect changed factual conditions or more accurate data, and subject to Paragraph 4.4. For purposes of Paragraph 4.4, the A/E's written decisions or recommendations shall serve as the A/E's initial decision.

3.127 *Add the following Subparagraph 13.14:*

13.14 PROCUREMENT OF MATERIALS BY AGENCY.

The Contractor accepts assignment of all purchase orders and other agreements for procurement of materials and equipment that are identified as part of the Contract Documents. The Contractor shall, upon delivery, be responsible for the storage, protection, proper installation, and preservation of such pre-purchased items, if any, as if the Contractor were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with delivery, storage, insurance, installation, and testing of items covered in any assigned purchase orders or agreements. All Contractor warranty of workmanship and correction of the Work obligations under the Contract Documents shall apply to any pre-purchased items, unless the Contract Documents specifically provide otherwise.

3.128 *In Subparagraph 14.1, change "...30..." to "...sixty (60)".*

3.129 *Delete Clauses 14.1.1.3 and 14.1.1.4.*

3.130 *In Subparagraph 14.1.3, delete all words after "...Work executed..." and add "...Any adjustment to the Contract Sum made pursuant to this Subparagraph shall be made in accordance with the requirements of Paragraph 7.5."*

3.131 *Delete Subparagraph 14.2.1 and substitute the following:*

14.2.1 The Agency may terminate the Contract, or any separable part of it, if the Contractor:

14.2.1.1 fails to complete the Work within the time specified in the Contract Documents, including any authorized adjustments; or,

14.2.1.2 fails to prosecute the Work, or any separable part of the Work, with the diligence, resources and skill that will ensure its completion within the time specified in the Contract Documents, including any authorized adjustments; or,

14.2.1.3 fails to make payment to Subcontractors for materials or labor in accordance with Title 29, Chapter 6 of the South Carolina Code of Laws, as amended, and the respective agreements between the Contractor and the Subcontractors; or,

14.2.1.4 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or,

14.2.1.5 fails to proceed as required by Subparagraph 4.3.3 pending final resolution of a Claim; or,

14.2.1.6 fails to comply with any of the other material provisions of this Contract.

3.132 *Delete Subparagraph 14.2.2, but not the subordinate Clauses and substitute the following:*

14.2.2 The Agency's right to terminate this Contract under Subparagraph 14.2.1 may be exercised if the Contractor does not cure such failure within seven (7) days (or more if authorized in writing by the Agency) after receipt of the notice from the Agency specifying the general nature of the failure. The Agency shall notify the Contractor's surety within a reasonable time. When terminating pursuant to Paragraph 14.2, the Agency may, without prejudice to any other rights or remedies of the Agency, and subject to any prior rights of the surety;

3.133 *Insert "...including Liquidated Damages, if any..." after the phrase "...other damages..." in the first sentence of Subparagraph 14.2.4.*

3.134 *Insert the following to Subparagraph 14.3.2 after the second sentence:*

Any adjustment to the Contract Sum made pursuant to this Subparagraph shall be made in accordance with the requirements of Paragraph 7.5.

3.135 *Delete Subparagraph 14.4.1 and substitute the following:*

14.4.1 The Agency may, at any time, terminate the Contract, or the Contract Work, in whole or in part, for the Agency's convenience and without cause.

14.4.1.1 Upon written consent of the Contractor, the Agency may reinstate the terminated portion of this Contract or Contract Work in whole or in part by amending the notice of termination if it has been determined that

14.4.1.2 circumstances clearly indicate a requirement for the terminated work; and,

14.4.1.3 reinstatement of the terminated work is advantageous to the Agency.

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3.136 Add the following Clause to Subparagraph 14.4.2:

14.4.2.4 complete the performance of the Work not terminated, if any.

3.137 In Subparagraph 14.4.3 delete the phrase "...along with reasonable overhead and profit on the Work not executed", and substitute "Any adjustment to the Contract Sum made pursuant to this Subparagraph shall be made in accordance with the requirements of Paragraph 7.5.

3.138 Add the following Article 15:

ARTICLE 15 PROJECT-SPECIFIC REQUIREMENTS AND INFORMATION

15.1 Project Number: 1159-N518-JM

15.2 Project Name: Spartanburg-TRB Front Office Phase 1 Modular Office/Wall System

15.3 Inspection Requirements: (Indicate the inspection services required by the Contract)

- ☐ Special Inspections are required and are not part of the Contract Sum. (see section 01400)
- ☒ Building Inspections are required and are not part of the Contract Sum. (see section 01400)
- ☐ Building Inspections are required and are part of the Contract Sum. The inspections required on this Work are: (Indicate which services are required and the provider)
- ☐ Civil
- ☐ Structural
- ☐ Mechanical
- ☐ Plumbing
- ☐ Electrical
- ☐ Gas
- ☐ Other (list)

Remarks:

15.4 List Cash Allowances, if any. (Refer to attachments as needed. If none, enter NONE)

Not Applicable

15.5 Requirements for Record Drawings, if any. (Refer to attachments as needed. If none, enter NONE)

Not Applicable

15.6 Requirements for Shop Drawings and other submittals, if any, including number, procedure for submission, list of materials to be submitted, etc. (Refer to attachments as needed. If none, enter NONE)

(See specifications)

15.7 Requirements for signage, on-site office or trailer, utilities, restrooms, etc., in addition to the Contract, if any. (Refer to attachments as needed. If none, enter NONE)

(See specifications)



SE-355 Performance Bond

2008 Edition

KNOW ALL PERSONS BY THESE PRESENTS THAT

(Insert full name or legal title and address of Contractor)

hereinafter referred to as "Contractor," and

(Insert full name and address of principal place of business of Surety)

a corporation duly organized and existing under the laws of the State of _____, with its principal office in the City of _____; and authorized to transact business in this State, hereinafter called the "Surety", are jointly and severally held and firmly bound unto

Spartanburg Community College, PO Box 4386, Spartanburg, SC 29305

(Insert full name and address of Agency)

or its successors or assigns, hereinafter referred to as "Agency", to which payment to be well and truly made, the sum of \$ _____, being the sum of the Bond, the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____ entered into a contract with Agency to construct 1159-N518-JM Spartanburg - TRB Front Office Phase 1 Modular Office/Wall System. Project is for moveable/modular wall system for the Tyger River Campus Front Office. Project will require providing and installing approximately 335 linear feet of walling. Contractor to provide, install, wire electrical outlets in walls and wire to power panels.

(Insert project Name and Number and Brief Description of Awarded Work, as found on the SE-330, Bid Form)

in accordance with Drawings and Specifications prepared by:

Matrix Engineering, Inc., 912 South Pine Street, Spartanburg, SC 29302

(Insert full name and address of A/E)

which agreement is by reference made a part hereof, and is hereinafter referred to as the Contract.

IN WITNESS WHEREOF, Surety and Contractor, intending to be legally bound hereby, subject to the conditions stated on the reverse side hereof, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative

DATED this _____ day of _____ BOND NUMBER _____
(shall be no earlier than Date of Contract)

CONTRACTOR

(Contractor's Name)

BY: _____

(Signature and Title)

ATTEST _____

(Signature and Title)

SURETY

(Surety's Name)

BY: _____

(Signature and Title)

ATTEST _____

(Signature and Title)

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- 15.8 Requirements for Project Cleanup in addition to the Contract, if any. *(Refer to attachments as needed. If none, enter NONE)*
(See specifications) _____

- 15.9 List all attachments that modify these General Conditions. *(If none, enter NONE)*
Specifications _____

Drawings E-1, F-2, E-3, E-4, F-5 _____

Section 16125 -Modular Wiring Systems _____

Performance Bond

2008 Edition

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Agency for the full and faithful performance of the contract, which is incorporated herein by reference.

2. If the Contractor performs the contract, the Surety and the Contractor have no obligation under this Bond, except to participate in conferences as provided in paragraph 3.1.

3. The Surety's obligation under this Bond shall arise after:

3.1 The Agency has notified the Contractor and the Surety at the address described in paragraph 10 below, that the Agency is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If the Agency, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Agency's right, if any, subsequently to declare a Contractor Default; or

3.2 The Agency has declared a Contractor Default and formally terminated the Contractor's right to complete the Contract.

4. The Surety shall, within 15 days after receipt of notice of the Agency's declaration of a Contractor Default, and at the Surety's sole expense, take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Agency, to perform and complete the Contract; or

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

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Agency for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Agency and the contractor selected with the Agency's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to the Agency the amount of damages as described in paragraph 7 in excess of the Balance of the Contract Sum incurred by the Agency resulting from the Contractor Default;

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor; and

4.4.1 After investigation, determine the amount for which it may be liable to the Agency and, within 60 days of waiving its rights under this paragraph, tender payment thereof to the Agency; or

4.4.2 Deny liability in whole or in part and notify the Agency, citing the reasons therefore.

5. Provided Surety has proceeded under paragraphs 4.1, 4.2, or 4.3, the Agency shall pay the Balance of the Contract Sum to either:

5.1 Surety in accordance with the terms of the Contract; or

5.2 Another contractor selected pursuant to paragraph 4.3 to perform the Contract.

5.3 The balance of the Contract Sum due either the Surety or another contractor shall be reduced by the amount of damages

as described in paragraph 7.

6. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond 15 days after receipt of written notice from the Agency to the Surety demanding that the Surety perform its obligations under this Bond, and the Agency shall be entitled to enforce any remedy available to the Agency.

6.1 If the Surety proceeds as provided in paragraph 4.1, and the Agency refuses the payment tendered or the Surety has denied liability, in whole or in part, then without further notice the Agency shall be entitled to enforce any remedy available to the Agency.

6.2 Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the Dispute Resolution process defined in the Contract Documents and the laws of the State of South Carolina.

7. After the Agency has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Agency shall be those of the Contractor under the Contract, and the responsibilities of the Agency to the Surety shall be those of the Agency under the Contract. To a limit of the amount of this Bond, but subject to commitment by the Agency of the Balance of the Contract Sum to mitigation of costs and damages on the Contract, the Surety is obligated to the Agency without duplication for:

7.1 The responsibilities of the Contractor for correction of defective Work and completion of the Contract; and

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 4; and

7.3 Damages awarded pursuant to the Dispute Resolution Provisions of the Contract. Surety may join in any Dispute Resolution proceeding brought under the Contract and shall be bound by the results thereof; and

7.4 Liquidated Damages, or if no Liquidated Damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. The Surety shall not be liable to the Agency or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Sum 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 Agency or its heirs, executors, administrators, or successors.

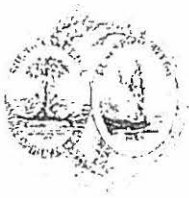
9. The Surety hereby waives notice of any change, including changes of time, to the contract or to related subcontracts, purchase orders and other obligations.

10. Notice to the Surety, the Agency or the Contractor shall be mailed or delivered to the address shown on the signature page.

11. Definitions

11.1 Balance of the Contract Sum: The total amount payable by the Agency to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts to be received by the Agency 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 Contract.

11.2 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform the Contract or otherwise to comply with the terms of the Contract.



SE-357

Labor and Material Payment Bond

KNOW ALL MEN BY THESE PRESENTS, that

(Insert full name or legal title and address of Contractor)

hereinafter referred to as "Contractor", and

(Insert full name and address of principal place of business of Surety)

a corporation duly organized and existing under the laws of the State of _____, with its principal office in the City of _____, and authorized to transact business in this State, hereinafter called the "surety", are jointly and severally held and firmly bound unto

Spartanburg Community College, PO Box 4386, Spartanburg, SC 29305

(Insert full name and address of Agency)

Hereinafter referred to as "Agency", or its successors or assigns, the sum of _____ being the sum of the Bond to which payment to be well and truly made, the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____ entered into a contract with Agency to construct 1159-N518-JM Spartanburg -TRB Front Office Phase 1 Modular Office/Wall System. Project is for moveable/modular wall system for the Tyger River Campus Front Office. Project will require providing and installing approximately 335 linear feet of walling. Contractor to provide, install, wire electrical outlets in walls and wire to power panels.

(Insert project Name and Number and Brief Description of Awarded Work, as found on the SE-330, Bid Form)

in accordance with Drawings and Specifications prepared by Matrix Engineering, Inc., 912 South Pine Street, Spartanburg, SC 29302

(Insert full name and address of VE)

which agreement is by reference made a part hereof, and is hereinafter referred to as the Contract.

IN WITNESS WHEREOF, Surety and Contractor, intending to be legally bound hereby, subject to the terms stated herein, do each cause this Labor and Material Payment Bond to be duly executed on its behalf by its authorized officer, agent or representative.

DATED this _____ day of _____, BOND NUMBER _____
(shall be no earlier than Date of Contract)

CONTRACTOR

SURETY

(Contractor's Name)

(Surety's Name)

BY: _____
(Signature and Title)

BY: _____
(Signature and Title)

ATTEST: _____
(Signature and Title)

ATTEST: _____
(Signature and Title)

Labor and Material Payment Bond

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Agency to pay for all labor, materials and equipment required for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to the Agency, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants; and

2.2 Defends, indemnifies and holds harmless the Agency from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. With respect to Claimants, and subject to the provisions of Title 29, Chapter 5 and the provisions of §11-35-3020(2)(c) of the SC Code of Laws, as amended, the Surety's obligation under this Bond shall arise as follows:

4.1 Every person who has furnished labor, material or rental equipment to the Contractor or its subcontractors for the work specified in the Contract, and who has not been paid in full therefore before the expiration of a period of ninety (90) days after the date on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute such action for the sum or sums justly due him.

4.2 A remote claimant shall have a right of action on the payment bond upon giving written notice by certified or registered mail to the Contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made.

4.3 Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or circuit in which the construction contract was to be performed, but no such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material or rental equipment was supplied by the person bringing suit.

5. When the Claimant has satisfied the conditions of paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

5.1 Send an answer to the Claimant, with a copy to the Agency, within forty-five (45) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

5.2 Pay or arrange for payment of any undisputed amounts.

6. Amounts owed by the Agency to the Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By the Contractor furnishing and the Agency accepting this Bond, they agree that all funds earned by the contractor in the performance of the Contract are dedicated to satisfy obligations of the contractor and the Surety under this Bond, subject to the Agency's prior right to use the funds for the completion of the Work.

7. The Surety shall not be liable to the Agency, Claimants or others for obligations of the Contractor that are unrelated to the Contract. The Agency shall not be liable for payment of any costs or expenses of any claimant under this bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

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

9. Notice to the Surety, the Agency or the Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, the Agency or the contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

10. By the Contractor furnishing and the Agency accepting this Bond, they agree that this Bond has been furnished to comply with the statutory requirements of the South Carolina Code of Laws, as amended, and further, that any provision in this Bond conflicting with said statutory requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

11. Upon request of any person or entity appearing to be a potential beneficiary of this bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

12. Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the laws of the State of South Carolina.

13. DEFINITIONS

13.1 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 Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the 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 might otherwise be asserted.

13.2 Remote Claimant: A person having a direct contractual relationship with a subcontractor of the Contractor or subcontractor, but no contractual relationship expressed or implied with the Contractor.

13.3 Contract: The agreement between the Agency and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

INCOME TAX CREDIT!!

Reference: SC §12-6-3350 – Income Tax Credit for State Contractors Having Subcontracts with MINORITY Firms

Taxpayers, who utilize certified minority subcontractors, may take a tax credit equal to 4% of the payments they make to said subcontractors. The payments claimed must be based on work performed directly for a South Carolina state contract. The credit is limited to a maximum of \$50,000 annually. A taxpayer is eligible to claim the credit for 10 taxable years beginning with the taxable year in which the credit is first claimed. After the above 10 taxable years, the taxpayer is no longer eligible for the credit regardless of whether or not the taxpayer claimed the credit in a year subsequent to the year in which the credit was first claimed.

The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Taxpayers must maintain evidence of work performed for a State contract by the minority subcontractor.

Questions regarding the tax credit and how to file are to be referred to:

SC Department of Revenue
Research and Review
Phone: (803) 898-5786
FAX: (803) 898-5888

References: SC §11-35-5010 – Definition for Minority Subcontractor
SC §11-35-5230 (B) – Regulations for Negotiating with State Minority Firms

The subcontractor must be certified as to the criteria of a "Minority Firm" by the Governor's Office of Small and Minority Business Assistance (OSMBA). Certificates are issued to subcontractors upon successful completion of the certification process. Questions regarding subcontractor certification are to be referred to:

Governor's Office of Small and
Minority Business Assistance
Phone: (803) 734-0657
FAX: (803) 734-2498



SE-480 Construction Change Order

AGENCY Spartanburg Community College

(Name)

PROJECT 1159-N518-1M

(Number)

Spartanburg-TRJ3 Front Office Phase I Modular Office/Wall System

(Name)

CONTRACTOR: _____

CHANGE ORDER NO: _____

Contract Dated _____ for: _____

The Contract is changed as follows:

Adjustments in the Contract Sum:

1. Original Contract Sum _____ \$ _____
2. Change by Previously Approved Change Orders _____ \$ _____
3. Contract Sum prior to this Change Order _____ \$ _____
4. Amount of this Change Order _____ \$ _____
5. New Contract Sum, including this Change Order _____ \$ _____

Adjustments in Contract Time:

1. Original Substantial Completion Date _____
2. Sum of previously approved increases and decreases _____ Days
3. Changes in Days for this Change Order _____ Days
4. New Substantial Completion Date _____

Contractor Acceptance:

(Print or type name of representative)

(Signature)

(Date)

Architect Recommendation for Acceptance:

(Print or type name of representative)

(Signature)

(Date)

Agency Acceptance and Certifications:

(Print or type name of representative)

(Signature)

(Date)

Change is within Agency Construction Procurement Certification amount of _____

Change is not within Agency Construction Procurement Certification amount of _____

Agency has authorized, unencumbered funds available for this additional obligation to this contract.

The revised scope is within the approved scope and budget for this project.

Office of the State Engineer Authorization for change not within Agency Construction Procurement Certification:

(Signature of OSE Project Manager)

(Date)

Change Order is not valid unless signed by the Agency, Contractor, Architect, and, when change is not within Agency's Construction Procurement Certification, the Office of State Engineer.

Specifications for Modular Wall System

Spartanburg Community College is procuring a moveable wall system for the Tyger River Campus Front Office Renovation Project. The moveable walls must meet the specifications in this section. Spartanburg Community College has reviewed the DIRT Moveable Wall System and K1 Genius Architectural Full-Height Movable Walls and is requiring that any brand submitted be equivalent to these systems. The College will review all submitted literature, specifications, drawings, and/or other information submitted to determine equivalence to the DIRT and K1 systems.

The quantity and details of items are:

- 335 Linear feet of walling
 - 9 feet in height
 - Walls will include 2' feet of clear glass on top, 2' of veneer on the bottom, and either 5' of frosted glass (for offices) or 5' of painted panels (for conference/class rooms)
 - Offerors should also include 2" of overall linear feet of walls for spares to be kept at the College.
- 9 - Veneer Barn doors
- 3 - Veneer Pivot doors
- 12 - Anodized aluminum door frames
- 10 - 12" bar pulls with locks
- 2 - 12" bar pulls with passage hardware
- 31 - Single gang electrical outlets
 - Including box, conduit, face plate, trim ring, and connection by electrician
- 18 - Single gang data boxes
 - Including box and empty conduit. (Wiring by College)
- 7 - Circuits
- Include tile cut-out
- Include all cove base on modular wall

Single Source Responsibility: Demountable partitions work includes flush wood doors and glazing that are furnished and installed by the demountable partitions Installer.

The integration of electrical and communications conduit and boxes into the demountable partitions work is required. The Contractor shall be responsible for the total and complete coordination of the electrical and communication components into the Work.

All brands offered and all offerors should meet the following specifications.

- A. Structural Performance: Provide demountable partitions capable of withstanding the effects of gravity loads and the following loads and stresses within limits and under conditions indicated:
 - 1. Transverse-Load Capacity of Panel System: Lateral deflection of not more than 1/240 of the overall span when tested under a uniformly distributed load of 5 lb/sq. ft. according to ASTM E 72.

Seismic Performance: Provide demountable partitions capable of withstanding the effects of earthquake motions determined according to ASCE 7, "Minimum Design Loads for Buildings and Other Structures."

- a. Spectral Accelerations for Short Periods (S_s): 18.7% g.
 - b. Spectral Accelerations for a 1-Second Period (S_1): 6.3% g.
 - c. Provide miscellaneous steel framing not shown on drawings which is required to satisfy seismic criteria.
- B. Product Data: For each type of product indicated.
- C. Shop Drawings: For demountable partitions. Include plans, elevations, sections, details, and attachments to other work.
1. Include critical field measurements.
 2. For installed products indicated to comply with design loads, include structural analysis data signed and sealed by the qualified professional engineer responsible for their preparation.
- D. Coordination Drawings: Reflected ceiling plans, drawn to scale, on which penetrations and ceiling-mounted items are shown and coordinated with demountable partitions.
- E. Samples for Verification: For each type of exposed finish required, prepared on Samples of size indicated below.
1. Panel Finish Face: Manufacturer's standard-size unit, but not less than 3 inches square.
 2. Linear Trim: 12-inch- long Samples.
 3. Door Finish Face: Manufacturer's standard-size unit, but not less than 3 inches square.
 4. Glazing: Manufacturer's standard-size unit, but not less than 3 inches square.
- F. Research/Evaluation Reports: For demountable partitions.
1. Provide evidence of compliance with structural performance requirements and the building code.
- G. Maintenance Data: For demountable partitions to include in maintenance manuals.
- H. Sound Transmission Characteristics: Where STC ratings are indicated, provide partitions with STC rating that was determined by testing an identical system according to ASTM E 90 and classified according to ASTM E 413 by a qualified independent testing agency.
- I. Fire-Test-Response Characteristics: Provide demountable partitions complying with the following requirements:
1. Surface-Burning Characteristics: Provide demountable partitions per ASTM E 84:

- a. Flame-Spread Index: 25 or less.
- b. Smoke-Developed Index: 450 or less.
- J. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, Article 100, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
- K. Mechanical Strength of Demountable Partitions: Provide demountable partitions capable of withstanding static loads in accordance with ANSI/BIFMA X5.6-2003.
- L. Mockups: Before installing demountable partitions, build mockups to verify selections made under sample submittals and to demonstrate aesthetic effects and set quality standards for materials and execution.
 - 1. Approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.
- M. Field Measurements: Indicate measurements on Shop Drawings.
- N. Coordination of Work: Coordinate layout and installation of demountable partition components with other units of Work. Installation of ceilings, floor coverings, lighting fixtures, HVAC equipment, and fire-suppression systems should be completed before demountable partitions are installed.
- O. Furnish extra materials described below, from same production run, that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
 - 1. Partition Components: Furnish a quantity of each type of full-size units equal to 2 percent of the amount installed.

DEMOUNTABLE UNITIZED-PANEL PARTITIONS

- A. Design Product: Subject to compliance with requirements, provide DIRT™ or KI; Movable Glass Walls and Movable Solid Walls, or a comparable product must be offered. The vendor is responsible for providing any information necessary to determine equivalence.
- B. Face Panels: Wood composite.
 - 1. Thickness: 1/2 inch.
 - 2. Width: As indicated.
 - 3. Paint Finish (CP-2): Factory-applied paint finish as follows:
 - a. Basis-of-Design Manufacturer: DIRT™.

- b. Series: Standard.
 - c. Color: Scout.
 - d. Chroma: DC-15
 - e. Finish: Textured finish.
4. Wood Veneer Finish (WD-2): Factory-applied wood veneer finish as follows:
- a. Basis-of-Design Manufacturer: DIRT.
 - b. Series: Standard.
 - c. Wood Veneer: Anigre, grade 2.
 - d. Finish: Transparent stain finish.
5. Electrical and Communications System Requirements: Fabricate face panels to accept electrical and communications systems components specified in Section 16125.
- C. Accessory Panels: Manufacturer's standard wood composite panel with Anigre wood veneers both sides.
- D. Framing: Aluminum.
- 1. Frame Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 - 2. Frame Color: Clear anodized aluminum
 - 3. Connections and Supports: Manufacturer's standard connections and supports that connect and release from floor and ceiling without damage using carpet grippers and ceiling track clips.
 - 4. Frame Bases: Provide frame bases with provisions for height adjustment to accommodate any floor slab variances. Provide a leveling mechanism for making and holding fine adjustment in height over a range of not less than 2 inches and for locking at a selected height.
 - 5. Frame Accessibility: Provide not less than 3 inches clear wall cavity for distribution of utilities accessible from either side of wall by removable face panels.
 - 6. Face Panel Attachment: Provide unitized frame assembly to accept face panels with orientation and module connection increments as indicated.
 - 7. Electrical and Communications System Requirements:
 - a. General: Make provisions for installation of electrical and communications system items arranged so that wiring can be readily removed and replaced.

- b. Conduit: Provide metal conduit raceway with pull wires in cavity of demountable partitions from outlet and device boxes to top of demountable partitions to permit wiring installation and connections specified in Section 16125.
 - c. Boxes: Provide metal outlet and device boxes in cavity of demountable partitions for all outlets and devices indicated. Provide metal junction and pull boxes where indicated or required.
 - d. Electrical and Communications System Components: Provide all cutouts and reinforcements required for demountable partitions to accept electrical and communications system components.
- E. Panel Joint Closure: Manufacturer's standard. Closures shall be capable of closing up to a 2-inch gap between demountable partitions and base building elements.
- F. Trim: Continuous, factory-finished, snap-on type; adjustable for variations in floor and ceiling levels.
- 1. Base Trim Profile: Recessed. Base trim shall be removable to access leveling mechanisms.
 - 2. Ceiling Trim Profile: Recessed. Ceiling trim shall be adjustable to accommodate up to a 3/4-inch gap between demountable partitions and base building elements.
 - 3. Wall Trim Profile: Recessed. Wall trim shall be adjustable to accommodate up to a 1-1/2-inch gap between demountable partitions and base building elements.
 - 4. Panel to Panel Profile: Recessed.
 - 5. Colors: Veneer Finish
- G. Glazed Aluminum Doors: Manufacturer's standard Stile and Rail glazed aluminum doors, 1.7" inches thick (43mm).
- 1. Door Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 - 2. Door Color: As selected by Architect from manufacturer's full range.
 - 3. Stile Width: 6-inches.
 - 4. Top Rail Height: 6-inches.
 - 5. Bottom Rail Height: 12-inches.
 - 6. Hardware Reinforcement: Mortise, reinforce, drill and tap doors at factory to receive mortise type hardware in accordance with the contract hardware schedule and templates.

H. Flush Wood Doors:

1. Doors shall be 1 3/4" thick, 5-ply, solid core, mortised to receive passage or locksets or butt hinges.
- I. Frameless Glass Pivot Door: Manufacturer's Standard frameless glass with top rail and btm adjustable alum. rails.
 1. Door Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 2. Door Glazing: 1/2" Tempered Glass
 3. Stile Width: Frameless Glass.
 4. Top Rail Height: 4-inches.
 5. Bottom Rail Height: 4-inches.
 6. Hardware Reinforcement: Mortise, reinforce, drill and tap doors at factory to receive hardware in accordance with the contract hardware schedule and templates.
- J. Door Frames: Manufacturer's standard aluminum, reversible, factory mortised to receive hardware, for 1-3/4-inch doors.
 1. Frame Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 2. Frame Color: As selected by Architect from manufacturer's full range.
 3. Hardware Reinforcement: Mortise, reinforce, drill and tap frames at factory to receive mortise type hardware in accordance with the contract hardware schedule and templates.
 4. Hardware Enclosures: Provide UL-approved junction boxes for electrically operated door hardware, interconnected with UL-approved, 1/2-inch- diameter conduit and connectors.
 5. Electrical Requirements:
 - a. General: Make provisions for installation of electrical items arranged so that wiring can be readily removed and replaced.
- K. Butt Hinge Frames: to accommodate other manufacturer's doors.
 1. Frame Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 2. Frame Color: As selected by Architect from manufacturer's full range.

3. Configuration: shall include self-supporting header, jambs and hinge hardware. Door frame width not to exceed 39" (991mm) wide module to accommodate an industry standard 36" (914mm) wide doors.
4. Maximum door width 48" (1219mm) (Module width 51" (1295mm); Actual door width is equal to module width less 3" (76.2mm).
5. Door thickness: door thickness no less than 1.7" (43mm).
6. Door Height: oversized 2" (50.8mm) at the door bottom to be field cut to suit each opening and ensure proper function and appearance of each door. This 2" (50.8mm) is calculated from the final planned door bottom position of 3/8" (9.5mm) A.F.F.
7. Frame Height: Vertical frames (jambs) shall be +2" (50.8mm) over length to be cut on-site to suit each opening height and to ensure proper alignment with adjacent frames.
8. Frame Prep: Hinge locations and sizes are determined and set by manufacturer; Factory milled frame shall include factory installed steel backer plates to accommodate Qty of 4 – (2 pair) 4 1/2" x 4" Stanley BB1409 Hinges with 10-24 Flat head machine screws.
 - 6.1 If Hinges are supplied "by others" they must conform to manufacturer's standard size, hole pattern and fastener type per above.
9. Frame verticals will come with a factory notch for ceiling track and factory drilled for manufacturer's standard header attachment.
10. Finish: Aluminum frame shall be available in clear anodized, powder coated and veneer wrapped finishes to match architects sample.
11. Extrusion Profile: frame shall be available in both curvilinear and rectilinear profile to match any adjacent unitized glass frames specified.

12. Electrical Requirements:

- a. General: Make provisions for installation of electrical items arranged so that wiring can be readily removed and replaced.
-
1. Sliding/Barn Doors + Frames: Manufacturer's standard reversible / non handed barn door unit. Door shall travel on a single continuous track which is mounted to the demountable wall system without damage to the wall system header +/- or frames, allowing reconfiguration without part replacement. The door operation / configuration shall be ADA compliant in both clear opening and opening force per section 4.13 of the ADA Guidelines. Custom sizes shall be available to 54" wide.
 1. Frame Finishes: Clear-anodized aluminum; AAMA 611, AA-M12C22A31, Class II.
 2. Frame Color: As selected by Architect from manufacturer's full range.

3. General: Door units shall include self-supporting header and track, jambs, sliding door, and be completely trackless at floor between jambs.
4. Frame - Track Construction: Continuous extruded self-supporting header section shall conceal the track mechanism. Concealed guides shall stabilize bottom of door. Strike side of door shall secure door in the closed position. The full length of door travel shall have Anti-derailing means. A continuous flexible seal shall be provided on guide and strike side of barn door frame for a complete light and sound seal when the door is in the closed position.
5. Door panel construction: shall be by means necessary to assure against racking failure. Available Door style type should include: 1) Solid flush, 2) aluminum frame (wide or narrow stile) or frameless finished glass on each vertical edge (no framing or support structure beyond head and adjustable base.)
6. Operation: In addition to integral overhead stops Door shall have an integral deceleration mechanism to reduce travel velocity to near zero as door approaches it's open and closed limit to prevent door slamming at either limit. Deceleration must be adjustable.

M. Hardware:

1. Door pulls shall be SUS304 Stainless steel, 12" overall pull height with 6" CTC mounting stems, 1.2 mm wall thickness, 1" diameter handle, 3/4" diameter mounting stems. Comparable finish of BHMA 630/US32D/C32D.
2. Use Corbin Mortise lock hardware wherever possible. Consider Bommer products that are manufactured locally where appropriate.
3. Key system/locks to match SCC master key system.

N. Glazing Frames: Manufacturer's standard aluminum for glazing thickness indicated.

1. Frame Finishes: Clear-anodized aluminum: AAMA 611, AA-M12C22A31, Class II.
2. Frame Color: As selected by Architect from manufacturer's full range.

O. Acoustical Rating for solid wall: STC 37

P. Seals: Manufacturer's standard.

Q. Accessories & Brackets: Manufacturer shall provide all necessary brackets, supports and accessories to accommodate any scheduled systems furniture components, architectural millwork, audio visual equipment, paper accessories.

FABRICATION

- A. Demountable Unitized Panels: Factory-assembled, flush, hollow unit construction; with faces smooth and free of buckles, oil canning, and seams; and insulated with solidly packed, inorganic, mineral filler. Fabricate panels for installation with concealed fastening devices and pressure-fit components that will not damage ceiling or floor coverings. Fabricate panels with continuous light-and-sound seals at floor, ceiling, and other locations where panels abut fixed construction.
 - 1. Factory glaze panels to the greatest extent possible.
- B. Components: Fabricate components for installation with concealed fastening devices and pressure-fit members that will not damage ceiling or floor coverings. Fabricate for installation with continuous seals at floor, ceiling, and other locations where partition assemblies abut fixed construction and for installation of sound attenuation insulation in partition cavities.
- C. Electrical and Communications System Components: Fabricate demountable partitions to accept electrical and communications systems components
- D. Protect mechanical finishes on exposed surfaces from damage by applying a strippable, temporary protective covering before shipping.
- E. Appearance of Finished Work: Variations in appearance of abutting or adjacent pieces are acceptable if they are within one-half of the range of approved Samples. Noticeable variations in the same piece are not acceptable. Variations in appearance of other components are acceptable if they are within the range of approved Samples and are assembled or installed to minimize contrast.

INSTALLATION

- A. Install demountable partition systems rigid, level, plumb, and aligned. Install seals to prevent light and sound transmission at connections to floors, ceilings, fixed walls, and abutting surfaces.
 - 1. Installation Tolerance: Install each demountable partition so surfaces vary not more than 1/8 inch from the plane formed by the faces of adjacent partitions.
- B. Make alterations to ceiling suspension system required by partition installation or to gain access to electrical or communication systems without affecting the structural integrity of ceiling suspension system. Make alterations so they are not noticeable after panel installation.
- C. Install door-and-frame and glazing-and-glazing-frame assemblies securely anchored to partitions and with doors aligned and fitted. Install and adjust door hardware for proper operation.

Spartanburg-TRB Front office
Phase 1 Modular Office/Wall System
State Project No. H59-N518-JM

- D. Engage a factory-authorized service representative to demonstrate and train Owner's maintenance personnel to adjust, operate, and maintain demountable partitions.

SECTION 16125

MODULAR WIRING SYSTEM

PART 1 GENERAL

1.1 SECTION INCLUDES

- A. Modular Wiring System - Distribution:
 - 1. Zone Distribution Box.
 - 2. Extender Cables.
 - 3. Splitters.
 - 4. Wall boxes.

1.2 RELATED SECTIONS

- A. Specifications on drawing E-5.

1.3 REFERENCES

- A. National Electrical Code
- B. Underwriter's Laboratory, Inc (UL)
 - Manufactured wiring system per UL 183
 - Metallic Outlet Box per UL 514A

1.4 SYSTEM DESCRIPTION

- A. Modular power system shall ensure efficient electrification and delivery of power from a zone distribution box to access wall boxes at any location. The system shall be prefabricated to a pre-determined configuration but will also allow for field modification of the zone distribution without voiding the UL listing. The zone distribution boxes will have total flexibility by not being pre-designated to specific floor plan locations. Homerun cabling will be supplied and connected to the zone distribution box by a local licensed contractor. Additional field installed homeruns can be added as well as additional whips and terminal blocks, with a maximum capacity of 16 circuits per zone box. System shall be designed and approved for use and above drop ceiling spaces.
- B. Modular wiring system is based on zone wiring requirements. Power distribution is achieved above ceiling through use of extender cables from the zone distribution box. Homerun cabling is provided by the local contractor at distribution. This method of wiring eliminates the need for any additional distribution modules. Wall boxes are connected to the zone boxes by way of extender cables and splitters. In order to maximize flexibility wall boxes must be able to be removed and or added without impacting the use of existing modules downstream (also known as daisy chaining).

- C. Modular connectors shall accommodate up to 8 conductors and employ following safety features:
 - 1. Connectors shall have a positive metal lock clip and incorporate polarity keys to prevent interconnection of 3 and 4 circuit components.
 - 2. Plastic clamshell case connector.
 - i. UL flammability rating of 94V0.
 - ii. Gendered and keyed to prevent possible mismatching of dissimilar voltages.

1.5 SUBMITTALS

- A. Product Data: Submit manufacturer's product data, including installation instructions.
- B. Project Record Documents: Submit project record documents, including as-built drawings and wiring diagrams.
- C. Warranty: Submit manufacturer's standard warranty.

1.6 QUALITY ASSURANCE

- A. Modular Wiring System:
 - 1. Electrical Distribution System: UL Listed as Manufactured Wiring System, compliant with UL 183.
 - 2. Compliant with grounding and shielding requirements of TIA/EIA 568-A and 569-A and National Electrical Code, Article 800-52(a).
 - 3. UL listing shall allow for 3-phase, 120/208 volts and/or 1-phase, 120/240 volts, 50 Hz or 60 Hz power distribution, 20 amps.
 - 4. Multi-Outlet Assembly: Compliant with National Electrical Code, Article 353.
 - 5. Manufactured Wiring System: Compliant with National Electrical Code, Article 604.

1.7 DELIVERY, STORAGE, AND HANDLING

- A. Delivery: Deliver materials to site in manufacturer's original, unopened, protective containers and packaging, with labels clearly identifying product name and manufacturer.
- B. Storage: Store materials in secure, clean, dry area indoors in accordance with manufacturer's instructions.
- C. Handling: Protect materials and finish from damage and moisture during handling and installation.

1.8 WARRANTY

- A. Modular Wiring System: Warranted to be free from defects in material and workmanship for period of 5 years.

PART 2 PRODUCTS

2.1 MANUFACTURER

- A Spider Agile Technology, 2821 Fenwick Road, Kelowna, British Columbia, Canada, V1X 5E4.
Phone (250) 765-2616. Fax (250) 765-2614. Web Site www.spidermfg.com
- B KI Carolinas, 600 Towne Center Blvd. Suite 304, Pineville, North Carolina 28134.
Phone (704) 889-3235. Fax (704) 889-3238. Web site www.ki.com

2.2 MODULAR WIRING SYSTEM - DISTRIBUTION

A. Zone Distribution System

- 1. ZDB – 4 whip or 2 whip
- 2. Ports: 2 homerun in and 6 whip out maximum.
- 3. Circuits of General Purpose and Isolated Power Distribution: 16 maximum.
- 4. Connect to Circuit Breaker: Homerun supplied by others
- 5. Construction:
 - i. Material: Galvanized steel with ½" and ¾" knockouts
 - ii. Minimum Thickness: 16 gauge
 - iii. 1 ¾" thick to fit under most low profile access floors
 - iv. Up to 4 DIN rail mount terminal blocks (typical 2) for field modification capability
 - v. Removable lid for in field access
 - vi. Have four steel standoff post to provide additional support to the lid
 - vii. Whips will be of Extra Flex to provide maximum bend radius
 - viii. Whips are secured to the zone box with an electrical conduit fitting for superior strain relief.
 - ix. Face mounted terminal connectors are not acceptable.
 - x. Whips must have circuit wiring diagram label
 - xi. Circuit labels on the inside and outside of the box and lid.

B. Extender Cables

- 1. 20 Amp 120/208v 60Hz
- 2. 9/16" Ultra Flex Armored cable
- 3. Quick connect ends have polarity keys to prevent interconnection of 3 and 4 circuit components
- 4. Lengths in 5' increments to 50 feet

C. Splitter (Circuit Distributors)

- 1. 20 Amp 120/208V 60Hz
- 2. 4 port devise (1 male port receives circuits / 3 male ports distribute circuits out)
- 3. Circuit distributors incorporate polarity keys to prevent interconnection of 3 and 4 circuit components

D. Pre-Wired Drywall Boxes

1. 16 gauge galvanized steel
2. Barriers available to provide separation between power and low voltage
3. Combination knockouts support various cable fill requirements
4. Adjustable stud mounting bracket for 1/2", 5/8", 1", 1 1/4" wallboard.
5. Available in 1, 2, 4 or 6 gang
6. Snap in or screw type face plates.
7. Pre-wired with (typical) 20 foot 9/16" Ultra Flex cable with pigtail end.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Examine areas to receive modular wiring system. Notify owner of conditions that would adversely affect installation or subsequent use. Do not proceed with installation until unsatisfactory conditions are corrected.

3.2 INSTALLATION

- A. Install modular wiring system in accordance with manufacturer's instructions, system design drawings, National Electrical Code, and local municipal codes as required.
- B. All outlets, boxes and enclosures shall be fastened securely to walls or permanent structures
- C. Verify power wires and data cables are separated by a physical barrier.
- D. Coordinate installation of modular wiring system with other work in progress.

END OF SECTION

APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by Owner.
 - 1. Application for Payment shall be at time of Substantial Completion. Final Application for Payment shall be at Final Completion.
- B. Payment Application Forms: Use AIA Document G702 and AIA Document G703 Continuation Sheets as form for Applications for Payment.
- C. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
 - 1. List of subcontractors.
 - 2. Schedule of Values.
 - 3. Contractor's Construction Schedule (preliminary if not final).
 - 4. Submittals Schedule (preliminary if not final).
 - 5. List of Contractor's staff assignments.
 - 6. Copies of building permits.
 - 7. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
 - 8. Certificates of insurance and insurance policies.
 - 9. Performance and payment bonds.
 - 10. Data needed to acquire Owner's insurance.
- D. Application for Payment at Substantial Completion: After issuing the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
 - 1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
 - 2. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- E. Final Payment Application: Submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
 - 1. Evidence of completion of Project closeout requirements to include operation and maintenance for the care and maintenance of products, materials, finishes, systems and equipment.

General Specifications

STORAGE OF MATERIALS:

The Contractor shall limit the storage of materials to areas designated at the Pre-Construction Conference. The Contractor shall be responsible for coordination of his material deliveries.

PARKING:

The Contractor will be allowed adequate parking, as agreed upon between Owner and Contractor.

ACCESS TO SITE:

The Contractor shall have access to the site only where directed by Owner.

POWER AND WATER:

The Owner will allow the Contractor use of available water and Power at the site without cost.

TOILET FACILITIES:

The Owner will allow the Contractor to use designated toilet facilities near the site.

SECURITY:

The Contractor is responsible for the security of his materials and equipment.

WORK HOURS:

Normal operating hours are 8:00 a.m. to 10:00 p.m. Monday through Thursday and 8:00 a.m. to 5:00 p.m. on Friday. The job site will be made available to the contractor at other time upon request.

DAMAGE TO EXISTING FACILITIES:

Any existing facilities, equipment or surfaces damaged by the Contractor shall be repaired or replaced at the Contractor's expense. Repair or replacement shall blend with the existing to provide an undisturbed appearance.

TRASH DISPOSAL:

The Contractor shall clean the construction area daily of all trash, debris, dirt, dust, equipment, and other accumulation caused by his operations inside and outside the site. The Contractor shall not allow any trash or debris to accumulate that will hinder the Owner's normal operation. Trash shall be removed daily from the site by the Contractor and shall not be stored or stockpiled anywhere on the site or in the Owner's trash containers.

WARRANTY:

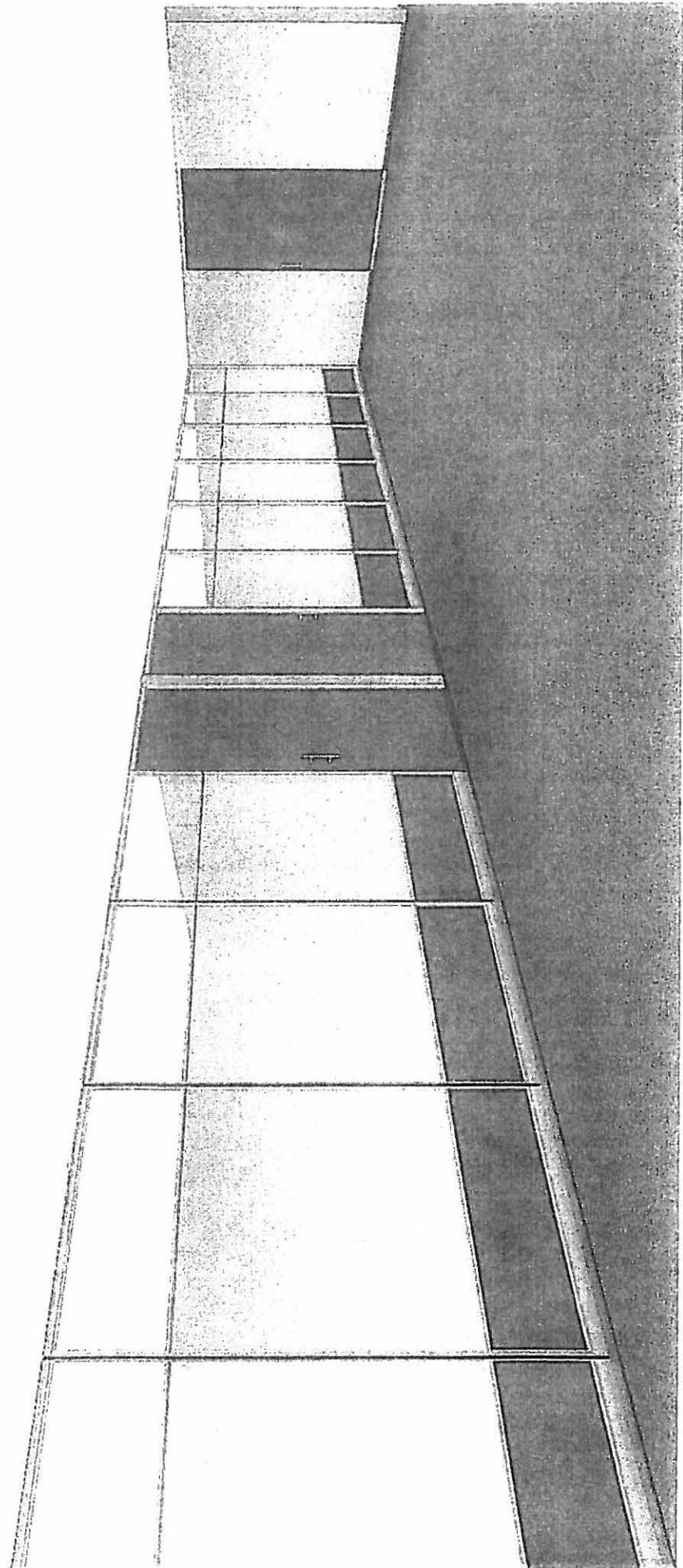
Contractor to warrant the products sold to be free from defects in material and workmanship in normal use and service. Contractor will repair or replace any defective parts falling under warranty for ten (10) years from the date of purchase and will be responsible for reasonable labor and shipping costs incident to repairing or replacing any such defective parts, subject to the exclusions set forth herein. Warranty does not cover any damage that occurs as a result of normal wear and tear. Any product, part or component must have been installed, maintained and used in the manner in which they were intended and must not have been subject to misuse and abuse.

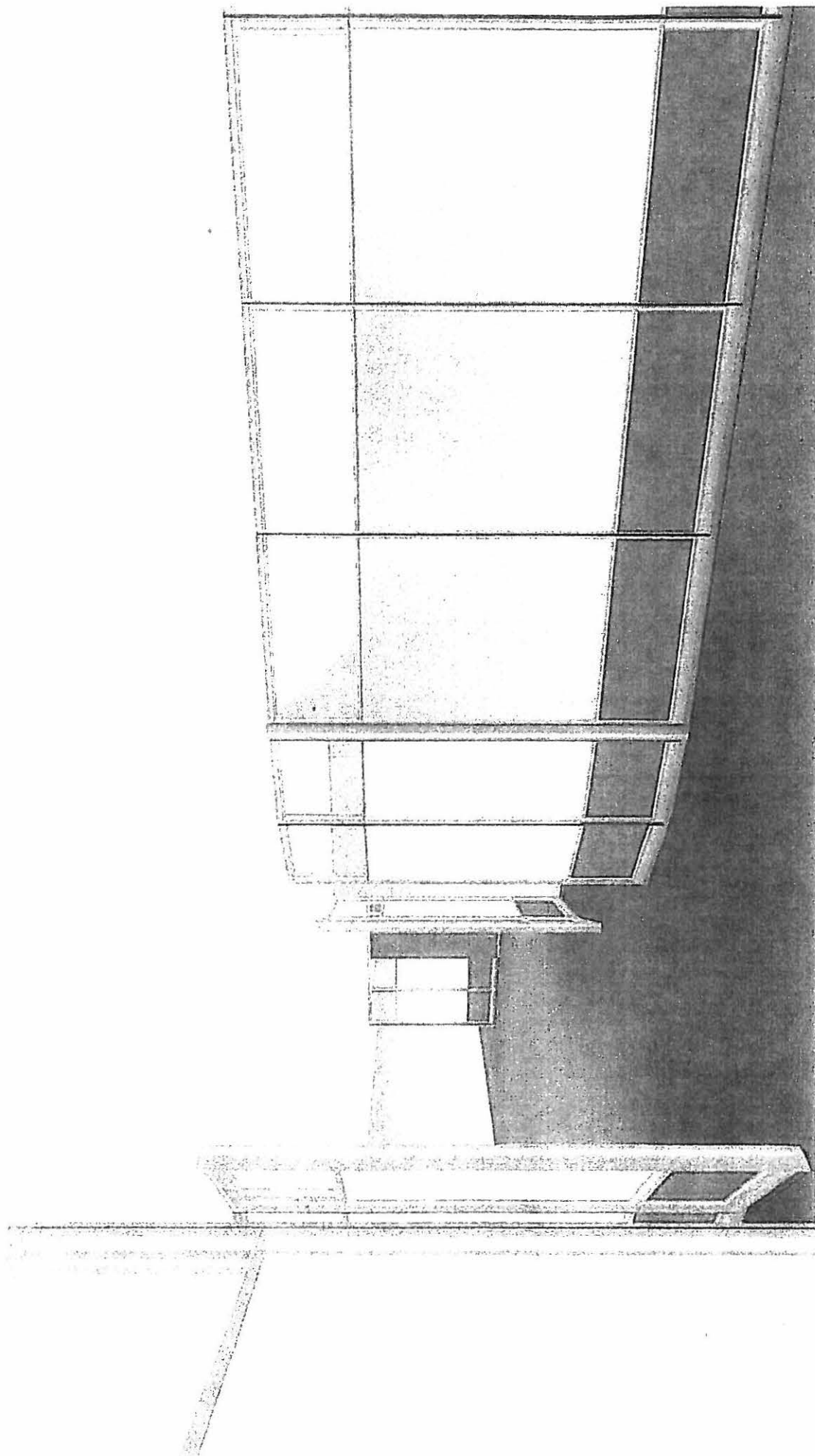
Contractor will repair or replace at owner's option any part of the product, or the entire product, that is defective in material or workmanship in normal use and service. Contractor may require inspection by a factory representative prior to any repairs or replacement. Warranty claims and resolution will be handled by the contractor.

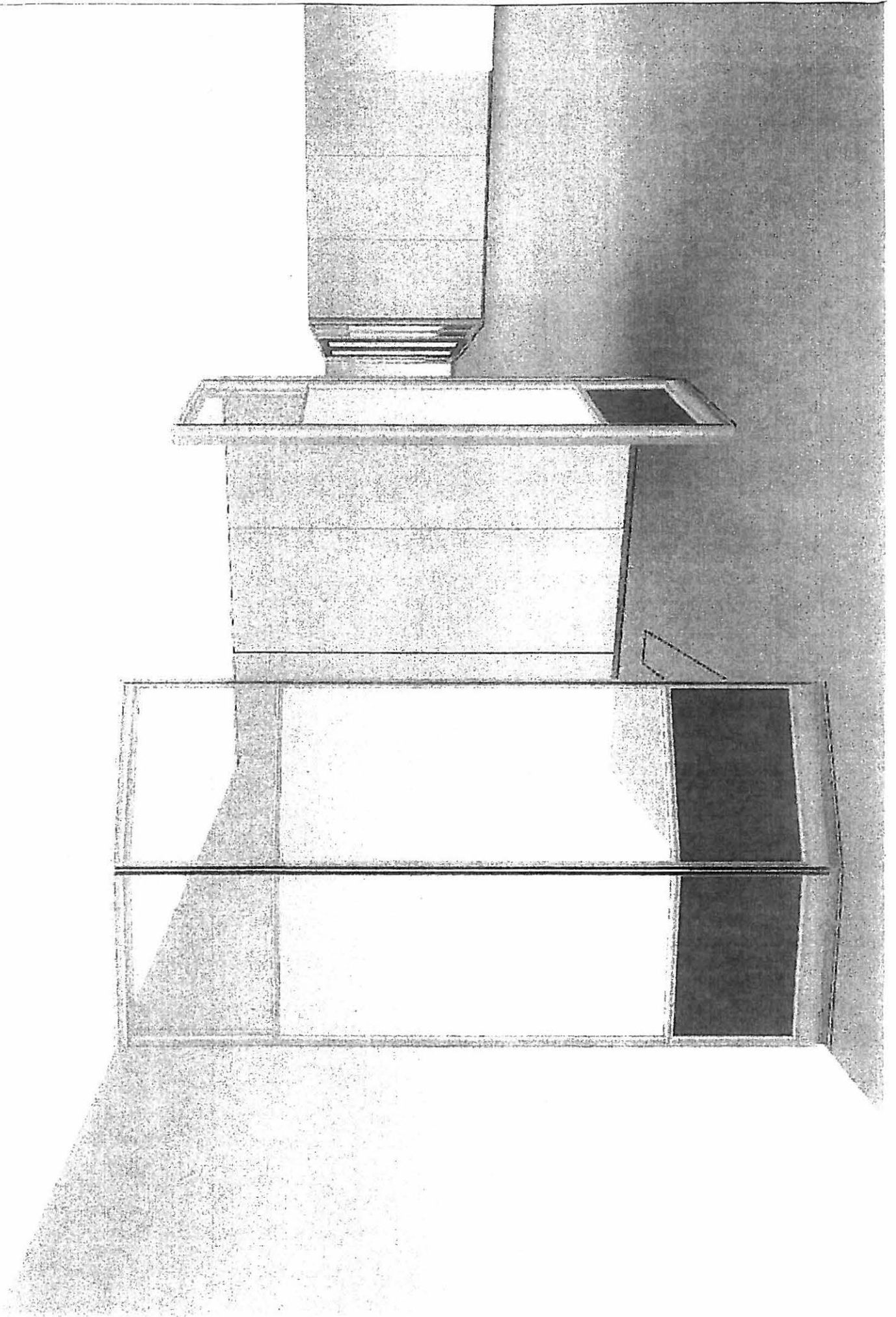
General Specifications

Contractor's warranty does not cover:

- Customer's Own Materials (COM) – textiles, finishes, etc.
- Maintenance of other manufacturers' products, except to pass through their warranty where applicable and where possible;
- Normal wear and tear;
- Natural variations in wood grain or the presence of character marks;
- Changes in surface finishes due to aging or exposure to light;
- The colorfastness or the matching of colors of textiles, including an exact match to cuttings or to swatch cards;
- Products exposed to extreme environmental conditions or improper storage;
- Damage due to force majeure.









South Carolina Department of Labor, Licensing and Regulation

Mark Sanford
Governor

Adrienne Riggins Youmans
Director

South Carolina Contractors' Licensing Board

110 Centerview Drive; Post Office Box 11329

Columbia, SC 29211-1329

Office Phone: (803) 896-4686

Licensing Section FAX: (803) 896-4701

www.llr.state.sc.us

RECEIVED
JUL 27 2009
OFFICE OF STATE ENGINEER

24 July, 2009

John St. C White, PE
State Engineer
Materials Management Office
1201 Main Street, Suite 600
Columbia, S C 29201

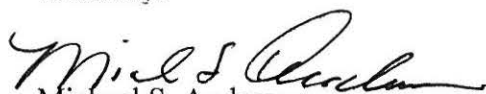
Re: Spartanburg-TBR Front office Phase 1 Modular Office/Wall System
State Project No. H59-N518-JM

Dear Mr. White,

The documentation provided has been reviewed and it is determined that the manufacturer can bid the project but is required to use properly licensed contractors to install the panel systems and a properly licensed mechanical contractor to perform the electrical portion of the project.

If you have any questions feel free to contact me at 803-896-4613.

Sincerely,


Micheal S. Anderson
Administrator



General Policy by the S. C. Contractors' Licensing Board Regarding Licensure Requirements for Bid Work within South Carolina

Upon review of the wording of the statutes, the Board has developed the following policy that addresses licensure for bidding a construction project that contains regulated work including the construction of recreational surfaces or golf courses.

Section §40-11-30 of the 1976 Code of Laws of South Carolina, as amended, prohibits an unlicensed entity or individual from performing or offering to perform regulated construction work if the total cost of the project is greater than \$5,000 and the nature of the work falls within one of the general or mechanical contractor major or subclassifications, a proper license is required for each regulated portion(s) of work, provided each portion exceeds \$5,000. An unlicensed or improperly licensed entity or individual may be subject up to a \$5,000 fine for bidding or engaging on a project without obtaining a proper contractor license. The total cost of construction, including all labor, profit, and material, regardless of who buys and pays for the materials, determines whether or not a license is required.

In order to determine if a contractor license is required for a construction project, it must be determined which license classification, if any, is required to be the prime contractor. A licensed general contractor may submit a bid for the entire project if 40% of the total cost of construction is within his/her license classification and group limitation. A general contractor holding a specialty classification or a mechanical contractor may submit a bid for the entire project if 51% of the total cost of construction is within his/her license classification and group limitation.

Should no scope of regulated work in the project equal or exceed 40%, any properly licensed general contractor licensee, with a portion of work in the project may bid the project. All regulated work not covered under the prime contractor's license must be subcontracted to properly licensed contractors. If the total cost of all unregulated work is 51% or more for a project and the project consists of some regulated work, an unlicensed entity or individual may bid the entire project provided the bidder has an active business that currently performs work related to the project. Consequently, the unlicensed entity or individual must subcontract any regulated work to properly licensed contractors when the total cost of each separate scope of regulated work exceeds \$5,000.

The owner of a construction project may elect to hire multiple prime contractors for all of the regulated work based upon 40-11-420(C) and hire any unlicensed entity or individual for work that is not regulated. If the owner is hiring separate multiple prime contractors for regulated work, all of the contractors hired for this work must be properly licensed regardless of the cost of the work.

Kimberly Lineberger
Vice Chairman of the Board

Approved by the Board: October 19, 2006

EXH. F

G A S CARPENTRY
11 BLUEMONT COURT
COLUMBIA, SC 29229
(803) 518-2067

License number: 111971
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2010
First Issuance Date: 12/01/2005
Classification: BD3 WL3

Supervises
GILBERT A SMITH JR - (CQG)

[Click here for classifications key](#)

EXH. G

GREG H POOLE
TAND G RESIDENTIAL ELECTRICAL SERVICES
129 KENNELWORTH WAY
EASLEY, SC 29640

License number: 2155
License type: Electrical
Expiration: 06/30/2011
How Licensed: EXAM-LIMITED \$5,000