

SHORT FORM CONTRACT AGREEMENT



THE DISTRICT: Horry County Schools 335 Four Mile Road, P.O. Box 260005 Conway, South Carolina 29528-6005 Phone: 843-488-6893	CONTRACTOR: Phone:	CONTRACT DATE: PROJECT NUMBER: 2223-09MJ PROJECT NAME: : Aynor Middle School (AMS) Canopy Project CONTRACT VALUE:
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The following terms and conditions are applicable to this *Contract Agreement* between the parties listed above for the Scope of Work (Exhibit A) established:

1. Contract Validity: This *Contract Agreement* shall be executed by a responsible signatory of both the District and the Contractor. This *Contract Agreement* along with all referenced contract documents, including exhibits, forms and other referenced documents, represents the full and complete agreement between the District and the Contractor. All contract documents are complementary and what is required by one shall be as binding as if required by all. Failure by the District at any time to enforce any provision of the contract documents shall not be construed as a waiver of such provision, and such failure to enforce shall not affect the validity of the *Contract Agreement*, or any part thereof, or the right of the District to enforce any provision at any time.

2. Independent Status, Acts, Errors, and Omissions: The Contractor shall be legally considered an independent contractor and neither the Contractor nor any subcontractors or suppliers shall, under any circumstances, be considered employees, representatives, or agents of the District or any Engineer under contract with the District for the project. The Contractor shall be responsible to the District for acts, errors and omissions of the Contractor, subcontractors and suppliers who perform any portion of the work or supply any products. Neither the District nor the Engineer shall be legally responsible for any negligence or other acts of the Contractor, any subcontractor or supplier nor the deduction of payroll taxes or provision of employment benefits normally provided to the District's or Engineer's employees.

3. District Representatives' Authority: The District's Construction Manager, project representative and any Engineer for the project are identified in Exhibit A and shall provide administration of the *Contract Agreement*.

4. Conformance to Applicable Laws: The Contractor shall comply with and give notices as required by all applicable laws of public authorities having jurisdiction over the Scope of Work (Exhibit A). If the Contractor performs work contrary to applicable laws without first notifying the District, in writing, for a determination or resolution, the Contractor shall assume full responsibility for such work and bear all costs for correction.

5. Professional Certifications: When professional certifications of performance criteria for materials, systems, or equipment are required by the contract documents, the District shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

6. Contractor's Quality Control Program: The Contractor shall institute and maintain throughout the contract a quality control program designed to ensure the work provided is in accordance with the contract documents at all times and in all respects. The quality control program shall include providing daily supervision and conducting frequent inspections by the Contractor of the work.

7. Coordination of Multiple Contracts: The District reserves the right to quote and award separate contracts for portions of the work, perform work with its own forces, or perform operations in conjunction with the work of the Contractor. The District shall coordinate the activities of the District's own forces and of each separate contractor with the work of any other contractors, who shall all cooperate with all other parties. Failure of the Contractor to report any perceived defects in the work of the District or other contractors shall constitute an acknowledgment that completed or partially completed construction is fit and proper to receive the Contractor's portion of the work, except as regards latent defects.

8. Cutting and Patching: The Contractor, the District and separate contractors shall a) be responsible for cutting, fitting or patching required to complete their work and to make its parts fit together properly within the work being performed, with other work, or with existing structures; b) not damage or endanger the completed work, or portion of work, of any other entity by cutting, patching or altering such work or by excavation; and, c) not cut or alter such work of another entity without consent.

9. Supervision and Labor: The Contractor shall provide and pay for all labor and services necessary for proper execution and completion of the Scope of Work (Exhibit A). Work scheduling shall be flexible to include weekends and evening hours when necessary to compensate for bad weather days and non-interference with student testing and other educational or athletic activities occurring during the week at the worksite without additional cost to the District of overtime pay. The day-to-day supervision and control of the Contractor's and subcontractors' employees is the sole responsibility of the Contractor.

The Contractor and all subcontractors shall not employ or contract with illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as may be amended or supplemented by State statute. A minimum of two (2) employees in addition to the worksite superintendent shall be fluent in spoken and written English. The Contractor shall ensure these requirements are part of any subcontract agreements.

10. Drug-Free Workplace: The Contractor shall be responsible for initiating, maintaining and supervising a drug-free program in connection with performance of the *Contract Agreement*, which shall conform to Title 44, Chapter 107, § 44-107-10 through § 44-107-90 of the South Carolina Code of Laws as may be amended.

11. Compliance with Employment Laws: By entering into a *Contract Agreement*, the Contractor agrees to abide by all applicable laws and codes pertaining to employment and shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin except when such condition is a bona fide occupational qualification reasonably necessary for normal operations of the Contractor. The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor, in all solicitations or advertisements for employees, shall state the Contractor is an "Equal Opportunity Employer." Notices, advertisements, and solicitations placed in accordance with applicable laws are deemed sufficient in meeting the requirements of this section.

12. Conflicts of Interest: The Contractor shall not employ or subcontract with any employee, director, owner, partner, agent, or representative of the District or the Engineer to perform any work or services, directly or indirectly, related to the requirements of the contract documents without approval of the District.

13. Worksite Superintendent: The Contractor shall designate a competent worksite superintendent who shall be in attendance at the worksite at all times during performance of the work by Contractor or subcontractor forces or supplier deliveries. The Contractor shall provide the Engineer and the District with mobile numbers or other direct means of communication with the Contractor and the worksite superintendent in the event of an emergency. The worksite superintendent may perform the work or duties of any trade or the duties of safety compliance or fire guard but not to the exclusion of the superintendent duties. The worksite superintendent shall have the authority to enforce strict discipline and good order among the Contractor's employees, agents and representatives, subcontractors and suppliers at all time.

14. Subcontractor & Supplier Relationship to the District: Nothing in this *Contract Agreement* shall infer any contractual relationship between the District and any subcontractor, supplier or similar entity under agreement to the Contractor except as it relates to warranties.

15. Contractor Legal Requirements Pertaining to Subcontractors: The Contractor shall abide by all applicable laws pertaining to the treatment and payment of subcontractors. Should the District have any proof the Contractor is not abiding by such laws, the District shall have the right to withhold payment from the Contractor until action is taken to remedy such breach. The District shall have no obligation to pay any subcontractor or supplier except as otherwise required by applicable laws.

16. Provision of Products: By execution of the *Contract Agreement*, the Contractor warrants to the District that the products to be incorporated into the work shall a) be of good quality, undamaged, and new; b) be free from defects, excluding latent defects; and c) conform to the contract documents. Products not conforming to the contract documents, including substitutions not approved and authorized by the District in writing shall be considered defective. Such non-conforming products shall be replaced by the Contractor at no additional cost to the District and no extension of contract time. The Contractor **shall not allow** a) 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 non-friable or contain minimal amounts of asbestos, and even though such products may still be legally installed; and b) use of lead materials in paints or in public water applications. "Lead-free" solder, flux and pipe shall be used in all public drinking water applications as outlined in the 1986 amendments to the Safe Drinking Water Act. "Lead-free" solder and

flux are defined as containing less than two-tenths of one percent (0.2%) lead, while valves, pipes and appurtenances shall contain less than eight percent (8.0%) lead.

17. Certification of Authorized Installer: All manufactured or fabricated products shall be stored, applied, installed, set-up, connected, erected, cleaned, conditioned, handled, started up, and tested in strict accordance with the requirements of the manufacturer, fabricator or supplier to avoid nullifying any warranties provided. Upon request of the District or as required by Exhibit A the Contractor shall supply a letter from the manufacturer, fabricator or supplier stating the Contractor or subcontractor is an approved and authorized installer of the products.

18. Project Time and Work Commencement: By executing the *Contract Agreement*, the Contractor confirms the time limit established in the Project Schedule (Exhibit D) is a reasonable period of time for performing the Scope of Work (Exhibit A). The Contractor shall proceed expeditiously with adequate forces to maintain the Project Schedule (Exhibit D) and achieve the established completion date.

19. Worksite Access: The Contractor shall ensure ingress to and egress from the worksite or any of its occupied buildings and facilities is unhampered. Access of the Contractor, subcontractors and suppliers shall only be to those portions of buildings and facilities designated for performance of Scope of Work (Exhibit A). Access to the District-occupied portions of the buildings and facilities shall only be for the purposes of spotting, clean-up, or communication with the Principal in the event of an emergency. No other communication with any building occupants shall occur. All site communications shall be made with established District representatives or the Engineer, if any.

20. Contractor Supplied Equipment: The Contractor, subcontractors, and suppliers shall not use any building's facilities except as provided or allowed by the District in Exhibit A). The Contractor shall provide and pay for all tools, scaffolding, fencing, and signage, rented or owned construction equipment and machinery, materials, services or other such items necessary for proper execution of the Scope of Work (Exhibit A). If the Contractor is allowed use of the District's existing water, power, or other facilities stated in Exhibit A, the Contractor is responsible for all excess charges. The Contractor shall not cause a shortage in water or power supplied to building occupants. Excess charges will be deducted from payments due.

21. Existing Building Safeguards: When construction work is required to an existing building or facility, the Contractor shall be solely responsible for protecting the portion of the building/facility and its contents where the work is being performed from inclement weather and damage resulting from the work. The worksite superintendent shall inspect the existing premises daily to ensure there is no damage in progress and shall notify the District's representatives immediately when such damage is identified.

22. Damages Remedy: The Contractor shall remedy all damages to the exterior or interior of any building or facility, including contents, due to the failure of the Contractor, any subcontractor or supplier to take sufficient precautions, either directly or indirectly, to safeguard from inclement weather conditions, water infiltration, the work being performed, or other causes of damage. The Contractor shall be responsible for all costs associated with such remedy, including insurance deductibles required by any insurance carrier. Likewise any building, lawn, landscaping, parking lot, canopies, athletic facilities, fences, signs or other District property damaged by the Contractor, subcontractor, or supplier shall be restored to the condition prior to damage and satisfaction of the District.

23. Responsibility for Work in Progress: The Contractor shall be solely responsible for and have control over means, methods, techniques, sequences and procedures implemented to accomplish the Scope of Work (Exhibit A) and for coordinating all portions of the work unless the contract documents give specific instructions concerning these matters. The Contractor shall supervise and direct all aspects of the work using the Contractor's best skill and attention. The Engineer, the District, or any regulatory authority shall have the right to inspect the progress of the work at any time for quality of workmanship and conformance to the contract documents and applicable laws; however, such inspection shall not relieve the Contractor of full responsibility for performance in accordance with the contract documents.

24. Underground Utilities and Shutdowns: The Contractor shall abide by the Underground Utilities Damage Prevention Act, South Carolina Statute 58-35-10, as revised, and shall include this same requirement in all subcontract agreements. The Contractor shall notify the District immediately of any accidental termination of electrical, mechanical, security or other such systems and the Contractor shall take immediate remedial action to bring such systems to full functionality. Fire alarm and security systems shall have priority.

25. Testing, Inspections and Approvals: Tests, certifications of testing, inspections and approvals required by the contract documents or by applicable laws, shall be arranged by the District, who shall pay all related costs unless responsibility for such testing, inspections, and approvals and the costs associated are assigned to the Contractor in the contract documents. If testing and inspection reveals failure of the work to comply with requirements, the Contractor shall bear all costs necessary for bringing the work into compliance, including repeated testing, inspections, and any additional Engineer or regulatory authority time and travel as provided for elsewhere.

26. Contractor Responsibility for Defective Work: Neither a) final payment, nor b) any decision of the Engineer or the District, nor c) any other provision in the contract documents shall relieve the Contractor of responsibility for faulty materials, equipment, workmanship or omission of a portion of the work to be performed.

27. Right to Reject/Stop Work and Correction of Work: The District shall have authority to reject work not conforming to the contract documents. Rejection of any non-conforming work by the District shall be corrected within ten (10) days at the expense of the Contractor, subcontractor, or supplier, whichever is at fault, and without any time extension. The District shall have the right to stop the work at any time. Any additional costs incurred as a result of the District's stoppage of work shall be the responsibility of the Contractor without any change in contract time when the stoppage is precipitated by, but not limited to, action, non-action, omission, error, illegal conduct, and non-conforming work on the part of the Contractor, any subcontractors, suppliers or other entities enjoined to the Contractor. The right of the District to stop the work shall not give rise to a duty on the part of the District to exercise this right for the benefit of the Contractor or any other individual or entity. In the event the Contractor fails to correct the deficient work or condition within ten (10) days, the District shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor, including compensation for the additional services of the Engineer, the District, inspectors, or another contractor as necessary.

28. Changes Required in the Work: The District reserves the right to make changes in the Scope of Work (Exhibit A) or other terms of the contract documents, which may include, by way of illustration and not limitation, a) changes to or correction of errors in, the original designs, specifications, or scope; b) implementation of new construction techniques, materials or processes; d) adapting unanticipated site conditions or other unforeseeable events; and/or e) other necessary changes in requirements. Changes shall be performed under applicable provisions of the contract documents and the Contractor shall proceed promptly to execute the changes. No portion of the contract documents shall be substantially changed nor shall a change in contract price or contract time be effected without execution of a *Change Order* as provided for in Exhibit E.

29. Excusable Delays: If the Contractor is delayed in the progress of the work by an excusable event such as a) government acts in a sovereign or contractual capacity; d) fire; e) epidemics or quarantine restrictions; f) freight embargoes; g) acts of a public enemy; or h) other causes which the District determines, then the contract time may be extended by a *Change Order* for such reasonable time as the District may determine, but in no event shall the extension of time be more than one (1) full day for each full day of excusable delay and not to exceed five (5) full days per calendar week. An excusable delay does not automatically entitle the Contractor to an equivalent extension of time unless the District determines the delay directly impacts the worksite such that no work could reasonably be in progress during the event and was a) unforeseeable, b) beyond the control of the Contractor, and c) not the fault of the Contractor, whether directly or indirectly. The Contractor shall make every effort to mitigate the effects of any delay.

31. Weather Delays: A total of five (5) days per calendar month (non-cumulative) shall be anticipated by the Contractor as "adverse weather." If adverse weather days beyond the anticipated five (5) days are substantiated, the Contractor may ask for an extension of the contract time up to a maximum of one (1) full day of extended time for each full working day of unanticipated adverse weather conditions which prevented a forty-hour work week within a seven (7) day calendar week. Such requests shall be documented by data substantiating the weather conditions a) were abnormal for a period of time which could not have been reasonably anticipated; b) had an adverse effect on the work scheduled, and alternate work unaffected by the weather could not have been done; and c) had an adverse effect on the construction schedule such that the loss of work time will adversely impact the established completion date. The Contractor must make every effort to mitigate the potential effect of the weather on the construction schedule including, but not limited to, rescheduling of subcontractors, pumping water from work areas, rescheduling work hours to alternate work days within the work week, or other such actions. Such time extension request shall be in writing and submitted to the District for approval at the end of the month in which the event causing the impact on the construction schedule occurred. A request for adverse weather extension shall not be allowed after the date established for substantial completion. The approved extension of time shall be incorporated in the next *Change Order*.

32. Remedy for Delays: Claims for delays shall be remedied only by an extension of contract time. Claims for extended or indirect overhead or lost profits as a result of the delay shall not be allowed. No extension of time shall be considered when the Contractor fails to a) ascertain site conditions existing at the time quotes were received the Contractor is reasonably expected to have knowledge of; b) anticipate properly the labor, equipment or other requirements of the work; c) properly schedule subcontractors, materials, or other requirements of the work; and/or d) properly administer the contract or mitigate conditions.

32. Worksite Clean-Up: The worksite premises shall be maintained in a neat and orderly condition and kept free from accumulations of refuse materials and debris during the entire performance of the work. It is the sole responsibility of the Contractor to arrange for legal removal and disposal of all refuse materials or debris. Existing District debris containers,

recycling bins, or dumpsters are not to be used unless specific approval is given in Exhibit A. If the Contractor fails to clean up the worksite appropriately or timely, including cleanup at completion of the work, the District may provide for cleanup and deduct such costs from the Contractor's payment.

33. Payment Requests: Payment requests shall be in accordance with the conditions stated in Exhibit F the same as if included herein.

34. Project Completion: The Contractor shall complete the Scope of Work (Exhibit A) by the number of consecutive calendar days and the completion date stated in the Project Schedule (Exhibit D). Failure to progress expeditiously with the work or complete the work by the date specified shall result in the District withholding payment and pursuing any other remedies available to the District.

35. Contractor Warranty Terms: The Contractor shall warranty the entire project beginning the day after the date of substantial completion as evidenced by a document prepared by the Contractor and approved by the District, for the period of time stated in the *Scope of Work (Exhibit A)*. In the event of phased work required by the District for early occupancy, the Contractor's warranty shall begin upon substantial completion of each phase of construction. The beginning date of any required phased warranty period shall be documented in a *Change Order* for that phase of work. The warranty shall permit direct enforcement by the District against any subcontractor, or supplier whose guaranty or warranty is called for and the Contractor shall a) be severally liable with such subcontractors or suppliers for purposes of performance under the *Contract Agreement*; b) be furnished by the District with a written notice of any breach of warranty, which shall be sufficient to invoke the terms of the warranty; and c) so bind any subcontractor or supplier to the terms of said warranty. The remedies under warranty are in addition to the remedies otherwise available to the District. The *Contractor's Warranty* shall exclude remedy for damage or defect caused by a) abuse or vandalism; b) modifications to materials, equipment or systems after acceptance of the work by the District; c) proof of improper or insufficient maintenance; d) proof of improper operation of equipment or systems; or e) normal wear and tear under normal usage.

36. Safety Programs and Protection: The Contractor is responsible for initiating, furnishing, installing, erecting, maintaining, and supervising all safety precautions, procedures, programs, and safeguards including all OSHA safety standards and requirements as applicable to the work to be performed. The Contractor shall take reasonable safety precautions and shall provide reasonable protection to prevent damage, injury or loss to other persons and their property. If, at any time during the contract term, the work performed by the Contractor or any subcontractor is considered by the District to create a condition which threatens the health, safety, or welfare of any persons or property, the District shall have the right to stop the project for immediate correction of such condition by the Contractor with no change in contract time or contract price.

37. Mandatory Safety and Conduct Requirements: The safety and security of District staff, students and the general public are of utmost priority to the District. To that end, the Contractor shall ensure the Contractor and all subcontractors and suppliers comply with the following:

- A. **No drugs, alcohol, knives, firearms or other weapons on the worksite**, whether or not there is an existing occupied building.
- B. **No fraternizing with, threats to, or use of abusive or profane language in the presence of students, parents, visitors, Engineer or District representatives, agents, or employees at the worksite location.**
- C. **No improper attire or actions while on any District premises.**
- D. **No tobacco products or alternative nicotine products on District premises.**
- E. **No direct communication with building occupants at the worksite, including the Principal, unless an emergency occurs.**
- F. Take all necessary precautions to separate worksite activities from the occupied portion of any building and secure all work areas and equipment with **safety fencing and appropriate signage.**
- G. Take all necessary precautions to ensure **minimal loss of utilities, power and other facilities** required by the occupants of an existing building and cause **minimal disruption of the educational process.**
- H. Secure **SLED (State Law Enforcement Division) criminal background checks** on all Contractor and subcontractor employees, agents, and representatives performing work at the worksite such that the Contractor shall ensure no person having committed violent crimes, crimes against children, or crimes of moral turpitude are allowed access to the worksite and such SLED criminal background checks shall be made available to appropriate District personnel or the District's legal counsel immediately upon request.
- I. Take all necessary precautions to protect students, parents, visitors, Engineer and District representatives, agents, or employees as well as the property belonging to those individuals at the worksite location during the contract term.
- J. Ensure the Contractor's and subcontractor's employees located at the worksite, whether full-time, part-time, or occasionally employed, **wear photo identification tags** specifically identifying them as part of the Contractor's or subcontractor's workforce and meeting the District's requirements for identification.

Failure to meet the requirements of conduct stated in this paragraph may result in arrest and/or removal of the offending individual(s) from the worksite, stoppage of

the work until corrective action is taken, or any other action deemed expedient by the District with no increase in contract price or change in contract time.

38. Traffic Control On-Site and Off-Site: The Contractor shall conduct its operations in a manner so as not to interrupt pedestrian or vehicle traffic except as approved by the District and the South Carolina Department of Transportation. The worksite shall be confined to the smallest area possible allowing maximum use of streets, sidewalks, parking areas or other pedestrian areas. The Contractor shall use worker and traffic control signs and devices necessary to comply with Section VI of U.S. Department of Labor, Federal Highway Administration, Manual on Uniform Traffic Control Devices for Streets and Highways (Washington, DC: GPO) as may be updated, to facilitate traffic control on public roads, streets, highways when work performed obstructs public traffic.

39. SDS Sheets: The Contractor shall maintain on the worksite all SDS sheets for any products with a chemical compound base used during execution of the work required. Safety precautions used in conjunction with any such materials or safety procedures used in the event of an accident shall be in accordance with SDS instructions and OSHA requirements.

40. Hold Harmless Agreement: The Contractor shall indemnify and hold harmless the District and the Engineer from and against all claims, damages, losses and expenses including attorney fees arising out of or resulting from the performance of the construction work or other services or the provision of products and associated incidental services, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or the injury to or destruction of tangible property, including any resulting loss of use, and is caused in whole or in part by any negligent or willful act or omission of the Contractor, any subcontractor or supplier. The obligation of the Contractor shall not extend to the liability of the District or the Engineer arising out of the preparation of maps, opinions, reports, surveys, change orders, designs, or specifications except as may be stated elsewhere in the contract documents. The Contractor shall indemnify and hold harmless the District and the Engineer from and against all claims arising out of lawful demands of subcontractors, laborers, workmen, mechanics, material men, suppliers, fabricators, and furnishers of machinery and laborers, or use of equipment, tools, products and supplies, incurred in the furtherance of the performance of the work. If the Contractor fails to do so, the District may, after having notified the Contractor, withhold from the Contractor's unpaid contract price a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed, but in no event shall the provisions of this paragraph be construed to impose any obligations upon the District to either the Contractor, the Contractor's Surety, subcontractors, suppliers, or their representatives, agents, employees or any third party.

41. Insurance Minimum Requirements: Adequate insurance coverage is deemed critical to the award of a *Contract Agreement*; therefore, the Contractor shall abide by the minimum insurance requirements stated herein. The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in South Carolina such insurance to protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the *Contract Agreement*. Each of the insurances required shall be issued by a company licensed by the State of South Carolina's Insurance Commissioner for the applicable line of insurance and shall be an insurer with a "Best Policyholder's Rating" of "B+" or better and with a financial size rating of Class IV or larger. The District and the Engineer shall be named as an additional insured with a cross liability clause. The following limits are minimum requirements:

- A. Commercial General Liability – \$500,000 limit for bodily injury and property damage (each occurrence) with premises operation and independent contractor's protection of \$500,000; products and completed operations of \$500,000 to be maintained for one (1) year following established completion of the project; commercial broad form property damage of \$500,000 including owned/non-owned and hired motor vehicles with combined minimum single limit of \$500,000; personal and advertising injury of \$100,000; contractual each occurrence of \$100,000; fire damage (any single fire) of \$100,000; medical expense (any single individual) of \$5,000.
- B. Automobile Liability with \$500,000 for bodily injury and property damage (per occurrence) including all owned, hired, and non-owned vehicles.
- C. Worker's Compensation as required by the State of South Carolina to include employer's liability (per single accident) of \$500,000; disease (per single individual) of \$100,000; disease (policy limit) of \$500,000.

If a Contractor cannot obtain adequate insurance coverage as required herein, a contract shall not be executed. Maintenance of insurance coverage, without lapse, is required throughout the term of the *Contract Agreement* and *Contractor Warranty* period. Should the Contractor or any subcontractor be found by the District to be in non-conformance with the insurance requirements, the District shall have all rights of redress available under the *Contract Agreement* and the laws of the State of South Carolina up to and including cancellation of the contract for default.

42. Certificate of Insurance: An original certificate of insurance shall be provided to the District by the insurance carrier(s) prior to commencement of the work using the District's *Certificate of Insurance* form in Exhibit G. The terms of the *Certificate of Insurance* and the insurance policies shall include those stated on the *Certificate of Insurance*. The

Contractor is responsible for any delay resulting from the failure of the insurance carrier to furnish a valid, original *Certificate of Insurance* as proof of existing coverage in the prescribed form or for any lapse or cancellation of coverage which results in stoppage of the work by the District until such insurance coverage has been replaced or reinstated at no increase in contract price or contract time.

43. Losses: The Contractor shall report all losses within twenty-four (24) hours to the Contractor's insurance agent/carrier and to the District's Procurement Coordinator and Construction Manager to facilitate adjustment of the claim including the nature of the loss and the estimated value of the loss or liability exposure. The Contractor shall provide all information and assistance necessary to any adjusters, whether the claim is covered by the Contractor's insurance carrier or the District's insurance carrier.

44. Contract Governance: This contract shall be governed by the District's Procurement Code and any applicable laws and codes of the State of South Carolina. Duties and obligations imposed by the contract documents and rights and remedies available therein shall be in addition to and not a limitation of duties, obligations, rights and remedies available under the District's Procurement Code or by law. The Office of School Facilities (OSF) shall determine the enforcement and interpretation of all the applicable codes and referenced standards on state buildings, including school buildings.

45. Taxes: The Contractor shall pay sales, consumer, use and similar taxes, which are legally enacted when quotes are received or negotiations concluded, whether or not such tax requirements are yet effective or merely scheduled to be effective during the contract term and whether or not the Contractor is aware of the requirements at the time the quote is submitted or negotiations completed.

46. Withholdings: The Contractor's attention is directed to Title 12, Chapter 9, of the South Carolina Code of Laws, "Withholding Agents and Withholdings" dealing with South Carolina Tax Commission withholdings for nonresidents. The Contractor shall ensure the Contractor and any subcontractors performing work conform to all requirements pertaining thereto, including by way of illustration and not limitation, securing a non-resident exemption or posting the required non-resident bond for two percent (2%) of the contract price with the South Carolina Tax Commission.

47. District Termination: The District may terminate the contract or pursue any other rights and remedies afforded to the District if the Contractor substantially breaches any

provision of the contract documents. The District may without prejudice to any other rights or remedies, after giving the Contractor twenty-four (24) hour written notice, terminate the *Contract Agreement* and take possession of the worksite and of all products, equipment, tools, and construction equipment and machinery located thereon, whether or not owned by the Contractor, require and accept assignment of sub-contracts, and/or finish the work by whatever method the District may deem expedient. Further the District may terminate the contract, without cause, should funds not be available. After receipt of a notice of termination, except as otherwise directed, the Contractor shall a) stop work on the date specified in the notice of termination, b) terminate all supplier orders and assign all existing subcontracts to the District unless otherwise directed by the District, and d) settle all outstanding liabilities and claims.

48. Assignment: The District and the Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto in respect to covenants, agreements and obligations contained in the *Contract Agreement*. Neither party shall assign the *Contract Agreement* in whole or in part without written consent of the other party. If either party attempts to make such an assignment without consent, that party shall nevertheless remain legally responsible for all obligations under the *Contract Agreement*.

49. Notices: All notices required hereunder shall be in writing and shall be given either by recognized overnight delivery service or by certified mail (return receipt requested), or by confirmed facsimile transmission. Notices shall be addressed to the party at the address set forth on this first page of this *Contract Agreement* and shall be deemed given upon its receipt.

50. Licenses and Permits: During the term of the contract, the Contractor shall be responsible for obtaining and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and/or inspections required by state, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

51. Ownership of Data & Materials: All data, material and documentation either prepared for HCS pursuant to this contract shall belong exclusively to HCS.

IN WITNESS THEREOF:

This agreement is entered into as of the day and year first written above.

CONTRACTOR	THE DISTRICT
Name & Title of Authorized Signatory:	Name & Title of Authorized Signatory:
Date:	Robin Strickland, Procurement Officer; John K. Gardner, Chief Financial Officer, Fiscal Services
Signature:	Date:
	Signature:

Attachments:

- Exhibit A: Scope of Work
- Exhibit B: Contract Documents List
- Exhibit C: Schedule of Values
- Exhibit D: Project Schedule
- Exhibit E: Change Order Procedures
- Exhibit F: Payment Procedures
- Exhibit G: Certificate of Insurance