# INVITATION FOR BIDS

This *Invitation for Bids* is a written and published solicitation document issued by Horry County Schools (listed as "the District" throughout the bid and Contract Documents) for the purpose of procuring construction work, which shall ordinarily result in a contract award to the lowest responsive and responsible Bidder. The *Bid Conditions* with associated forms and the Contract Documents, which include the *Contract Agreement*, Exhibits A through G, associated forms, the specifications and drawings, and any other referenced documents therein, all describe the bid process and the construction work to be performed and are published as an integral part of this *Invitation for Bids* the same as if incorporated herein. Bid security and performance and payment bonds are required in accordance with the District's Procurement Code, as may be amended. Contractors and subcontractors shall be licensed in accordance with State law and requirements of the Labor, Licensing, and Regulations Board of the State of South Carolina.

In accordance with the authority granted by the Horry County Schools' Procurement Code, any prospective Bidder, Offeror, Contractor, or Subcontractor, who feels aggrieved in connection with this solicitation, any addendum to the solicitation, or the subsequent award of a contract has a right to protest and present an appeal to the District within the time frame allowed from the date of issuance of this *Invitation for Bids*, any addendum issued thereto, or the *Notice of Intent to Award*, whichever is at issue. The protest shall be in accordance with the District's Procurement Code. Contact the District's Procurement Officer for details at 843-488-6893 or email rstrickland@horrycountyschools.net .

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| INVITATION FOR BIDS / AD DATE: | October 8, 2020 |
| PROJECT OWNER: | Horry County Schools (the District) |
| BID NUMBER: | 2021-12RF |
| PROJECT NAME: | Bard Unit Replacement at Lakewood Elementary School |
| PROJECT LOCATION(S): | Lakewood Elementary School<br>1675 Hwy. 396<br>Myrtle Beach, SC 29575 |
| PROJECT DESCRIPTION: | This project requires providing material and manpower to remove and replace existing wall-hung heat pumps with energy recovery ventilators and hot gas reheat humidity control. |
| BID SECURITY: | Five Percent (5%) required per *Bid Instructions* |
| PERFORMANCE & PAYMENT BONDS: | One Hundred Percent (100%) of contracted amount as stated on the *Notice of Intent to Award* |
| SITE VISIT DATE/TIME: | *NON-Mandatory Site Visit by Appointment Only:* No site visits will be scheduled after Wednesday, October 21, 2020. Appointment for a site visit may be made by contacting: Ara Heinz at (843) 465-1588. |
| SITE VISIT LOCATION: | Lakewood Elementary School<br>1675 Hwy. 396<br>Myrtle Beach, SC 29575<br><br>All visitors must sign in and out at the front desk. |
| QUESTIONS: | All questions must be submitted in writing to the District Bid Contact Person by 12:00pm (noon) on Thursday, October 22, 2020. |
| SUBMIT BIDS TO: | Vendor Registry Website online at: https://vrapp.vendorregistry.com/Bids/View/BidsList?buyerId=2f302e8a-69b0-407b-a21a-3368d004365e |
| BID OPENING DATE/TIME: | Thursday, October 29, 2020 at 3:00pm (Unless date and time are otherwise amended by addendum.) |
| BID OPENING LOCATION: | Horry County Schools District Office<br>Conference Room B308<br>335 Four Mile Rd.<br>Conway, SC 29526<br>(Unless the location is otherwise amended by addendum.) |
| BID CONDITIONS AND CONTRACT DOCUMENTS POSTED AT: | District Website: http://apps.hcs.k12.sc.us/apps/protrac/<br>Other available web service:<br>https://vrapp.vendorregistry.com/Bids/View/BidsList?buyerId=2f302e8a-69b0-407b-a21a-3368d004365e<br>Or by calling: HCS Procurement 843-488-6889 |
| ARCHITECTS/ENGINEERS: | Owens and Associates, Inc.<br>1007 Lake Hunter Circle<br>Mt. Pleasant, SC 29464<br><br>Coleman C. Owens, III, PE (843) 849-6457 cole@owensmep.com |
| DISTRICT BID CONTACT PERSON: | Rickey Frazier, Procurement Specialist<br>Phone: (843) 488-6942 Fax: (843) 488-6945 E-mail: rfrazier001@horrycountyschools.net |

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# SUMMARY OF SERVICES REQUIRED

INTRODUCTION – The purpose and intent of this Invitation for Bids is to establish a contract for the provision of services based on the attached specifications and guidelines. The project involves providing material and manpower to replace the existing Bard units with new wall-hung heat pumps with energy recovery ventilators and hot gas reheat humidity control.

SCOPE OF WORK – The scope of work requires the Contractor to furnish all labor, materials, tools, equipment, and incidentals necessary to satisfactorily complete the project as detailed in Exhibit A and associated specifications and plans as provided by Horry County School. The overall project involves the removal and replacement of existing Bard units with new wall-hung heat pumps with energy recovery ventilators and hot gas reheat humidity control. Existing supply and return grilles are to remain. The Contractor is responsible for the mechanical and electrical work in order to provide an operational system at the completion of the work. Refer to Exhibit A for further details.

TERM OF CONTRACT (Estimated) – If the solicitation and manufacturer's lead time allow, the Contractor can begin work starting during HCS Winter Break (December 23, 2020 – January 2, 2021). Other timeframes available for removal and installation are Spring Break (April 2 – 10, 2021) and June 18 – 30, 2021. Refer to Exhibit D for additional details.

AWARD CRITERIA – Award will be made to the lowest responsive and responsible bidder. Award will be made to only one bidder.

# DEFINITIONS

Horry County Schools

Following are definitions of terms used in the *Bid Instructions*. These definitions are not entire, plenary, or exhaustive of all terms used and shall not be used to construe meaning or intent. Terms may be defined where used, in the District's Procurement Code, or may be subject to normal and usual interpretation in the context used.

1. Architect/Engineer: Any individual or entity legally qualified to practice architecture or engineering in South Carolina with whom the District has a contractual agreement to provide services pertaining to construction that members of this profession or those in their employ may justifiably perform. The Architect/Engineer serves as the District's authorized representative to the extent of the contractual agreement between the Architect/Engineer and the District. Any reference to Architect/Engineer also includes any representatives, agents or employees of the Architect/Engineer.

2. Bid: Completed and properly signed offer for the price(s) stipulated on the District's *Official Bid Form* to do the work specified in the Contract Documents and in accordance with the *Bid Instructions*.

3. Bid Addendum: Written or graphic instrument issued by the District prior to the receipt of bids which modifies or interprets the Contract Documents by additions, deletions, clarifications or corrections. The addendum may reference any specification, drawing, or other document as being incorporated therein.

4. Bid Bond: Form of bid security in the amount of five percent (5%) of the sum total of the base bid and all alternate bids and executed on the District's *Bid Bond* form by the Bidder as principal and by a Surety as guarantor that the Bidder, if awarded a contract, shall enter into a contract within the specified time and furnish any required performance and payment bonds, insurance certificate(s) or other documents required by the *Notice of Intent to Award* or risk forfeiture of the bond. (Also see Bid Security.)

5. Bid Opening Date and Time: The date and time established by the District in the *Invitation for Bids*, as amended by any addendum, for receipt and opening of bids. Bids received after the established bid opening date and time are not acceptable and shall not be considered. The bid opening will occur immediately following.

6. Bid Security: A certified cashier's check or a bid bond submitted with a bid and serving to guarantee to the District that the Bidder, if awarded the contract, shall execute such contract in accordance with the Contract Documents requirements. No other forms of security are acceptable. Failure to execute the contract may result in forfeiture of the certified cashier's check or the bid bond to the District. (See District's Procurement Code for additional bid security requirements.)

7. Bidder: An individual or entity who submits a bid to do the work specified in the Contract Documents as a prime contractor and who is licensed to submit a bid and to perform such work in the State of South Carolina. A Bidder does not become a Contractor for purposes of the Contract Documents until a contract is executed.

8. Change Order: Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

9. Construction Work: Additions, repairs, upgrading or renovating an existing District structure or the erecting of new structures and facilities. It includes the total scope of activities to be performed as provided in the Contract Documents whether performed by one or more contractors, subcontractors, the District, or any combination thereof. The scope of activities includes all labor, materials, and equipment to be provided by the Contractor to fulfill the obligations of the Contract Documents. (Also referred to as the "project.")

10. *Contract Agreement*: The written and executed *Contract Agreement* between the District and the Contractor for purposes of performing the work identified in the Contract Documents at the agreed upon contract price during the agreed upon contract time. The executed *Contract Agreement* supersedes any prior negotiations, representations, or agreements, whether written or oral, unless incorporated in the *Contract Agreement* by reference to supplementary documents, or through execution of a *Change Order*. The contract between the District and the Contractor is not to be construed as an agreement between the District and any subcontractor, material or equipment supplier, or any other individuals or entities enjoined to the Contractor for purposes of contract execution.

11. Contract Documents: Documents including all terms and conditions and forms contained in the Contract Documents as originally published as well as any published bid addenda, any referenced drawings and specifications related to the project and integral to the performance of the work, and any *Change Order* (or directive) executed after contract execution.

12. Contractor's License Number: License number issued by the South Carolina Contractors' Licensing Board and required for all general contractors (as prime contractors) and all mechanical contractors (as prime contractors or subcontractors) performing construction in excess of $5,000. (For information contact the South Carolina Contractors' Licensing Board at 803-896-4686.)

13. Contractor's Group Number: A designation by the South Carolina Contractors Licensing Board from one (1) to five (5) indicating a specific dollar value limitation on construction licenses for prime contractors and mechanical contractors. Such licensure designation limits the Contractor's or subcontractor's ability to bid on or perform the work designated in the Contract Documents.

14. Debarred: The disqualification of an individual or entity from bidding on or being awarded a contract by the State of South Carolina or any other governmental entity for a specified period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance. Any individual or entity debarred by the State of South Carolina or other governmental entity is ineligible to bid on or accept any contracts with the District under the debarred name or any other name.

15. District: Horry County Schools as represented by its Board of Education, Superintendent, management staff, procurement officials, employees, or other authorized representatives or agents. The District's Construction Management Office has the authority to contract for architectural and construction services and administration of the resulting contracts in accordance with the District's Procurement Code and the directives of the Board of Education.

16. District Bid Contact Person: Designee of the District Procurement Officer assigned to officiate the bid process for construction work or other related services.

17. District Procurement Officer: The District's head of Procurement assigned to oversee procurement processes to ensure conformance to the District's Procurement Code and to facilitate protests and claims.

18. Entity: Any business, corporation, partnership, sole proprietorship, joint stock company, joint venture, or any other legally formed organization.

19. Informality or Irregularity: A bidding requirement not fully complied with by the Bidder, waived by the District or allowed to be corrected when it is merely a matter of form or an immaterial variation from the exact requirements of the *Bid Instructions* having no effect or negligible effect on total bid price, quality, quantity or delivery of supplies or performance of the contract and for which the waiver or correction would not be prejudicial to the relative standing of the other bidders.

20. *Invitation for Bids*: A written and published solicitation document issued by the District for the procurement of construction work, which shall ordinarily result in a contract awarded to the lowest responsive and responsible Bidder.

21. May: The word "may" or other such words or phrases used anywhere in the Contract Documents indicates a recommendation that is adhered to by the Bidder, Contractor, Architect/Engineer or District at his/her choice.

22. Minority or Woman Owned Business: Means a small business concern that is at least fifty-one percent (51%) unconditionally owned by one or more individuals who are both socially and economically disadvantaged or are women or a publicly owned business having at least fifty-one percent (51%) of its stock unconditionally owned by one or more socially and economically disadvantaged individuals or by women.

23. *Notice of Intent to Award*: A written notice of the District's acceptance of a Bidder's bid and the intention to award a contract. The *Notice of Intent to Award* is mailed to all bidders and posted at https://vrapp.vendorregistry.com/Bids/View/BidsList?buyerId=2f302e8a-69b0-407b-a21a-3368d004365e . The *Notice of Intent to Award* is not an authorization for commencement of work but only serves as a notice of the District's intention to enter into a contract. Such *Notice of Intent to Award* may be cancelled prior to the execution of a contract.

24. *Official Bid Form*: A form furnished by the District to be completed and signed by an authorized representative of the bidding entity and submitted by the bid opening date and time, which constitutes the Bidder's offer to furnish all materials and labor to accomplish the work at the offered prices in the time frame established by the District.

25. *Payment Bond*: A bond provided by the Contractor on the District's *Payment Bond* form in which a Surety guarantees to the District that the Contractor shall pay subcontractors and suppliers providing work or materials under the contract. (See District's Procurement Code for additional payment bond requirements.)

26. *Performance Bond*: A bond provided by the Contractor on the District's *Performance Bond* form in which a Surety guarantees to the District that the work under the contract shall be performed in accordance with the Contract Documents and in the time established as may be amended by any *Change Order*. (See District's Procurement Code for additional performance bond requirements.)

27. Pre-bid Conference: A meeting, generally conducted at the worksite location if there is an existing structure, approximately fifteen (15) days prior to the bid opening date and time for potential bidders, the Architect/Engineer, and District representatives to view and/or discuss the conditions under which the work is to be performed and to provide clarification of the Contract Documents, which shall be confirmed in a subsequent *Bid Addendum*. Normally the pre-bid conference is voluntary (non-mandatory) unless otherwise stated in the *Invitation for Bids*; however, Bidders are responsible for getting the issued addendum following the conference. If the pre-bid conference is designated as mandatory in the *Invitation for Bids*, only those bids from those bidders represented at the mandatory conference shall be considered.

28. Principal: Officers, directors, owners, partners, and individuals having primary management or supervisory responsibilities within a business entity, including project directors, financial officers or other such key personnel.

29. Product Data: Standard prepared data including such information as project specifications and installation instructions, catalog cuts, product photographs, operating and maintenance instructions, and indicating other general or standard manufacturing or fabrication characteristics.

30. Project: The total scope of work to be performed as provided in the Contract Documents whether performed by one or more contractors, subcontractors or the District itself. (Also referred to as the "work," the "work to be performed" or other such terms.)

31. Project Manager: The Contractor's designated representative to manage the flow of materials to the worksite and the timely sequencing of all sub-contracted work to ensure the continual progress of the work to meet the substantial and final completion dates established as may be amended by any *Change Order*.

32. Representative: An authorized designee of an individual or entity with formal responsibilities as specified by contract or employment agreement.

33. Shall: The word "shall" or "must" or other such words or phrases used anywhere in the Contract Documents indicates a mandate that must be adhered to by the Bidder, Contractor, Architect/Engineer or District.

34. *Special Conditions*: A part of the Contract Documents which supplements, modifies, changes, adds or deletes from the requirements of the *Bid Instructions,* the provisions of the *General Contract Conditions*, or other Contract Documents and specifies terms and conditions specific to the work to be performed.

35. Specifications: A written description of the physical, functional, or performance characteristics, or the nature of the materials, equipment, processes, construction, or work to be performed. It includes, as appropriate, construction standards, technical data, workmanship, inspection and testing requirements.

36. Subcontractor: An individual or entity, who is properly licensed to do business in the State of South Carolina, having a direct contract with the Contractor to perform a portion of the work described in the Contract Documents. Any reference to subcontractor also includes any representatives, agents, or employees of the subcontractor or any other entity enjoined to the subcontractor to perform any work in relation to the project.

37. Surety: An individual or entity who promises, in writing, to make good the debt or default of a Bidder, Contractor or other entity.

38. Suspension: Disqualification of an entity to submit a bid or receive an award of a contract from the State of South Carolina or other governmental entity for a designated period of time pending the completion of an investigation and any legal proceedings that may ensue because the entity is suspected, upon probable cause, of engaging in criminal, fraudulent, seriously improper conduct or the failure or inadequacy of performance.

39. Taxpayer Identification Number (TIN): Means the number required by the Internal Revenue Service to be used by the Bidder or Contractor in reporting income tax and other returns. (A Federal Identification Number or Social Security Number.)

40. Trivial or Negligible Effect: An increase in the amount of the base bid or a decrease in the Contractor's cost not to exceed one percent (1%).

41. Worksite: The actual location(s) where the scope of work as identified in the Contract Documents is to be performed by the Contractor.

42. Worksite Superintendent: Contractor's representative at the worksite who is responsible for continuous field supervision, coordination, and completion of the work and for the enforcement of safety regulations. The worksite superintendent performs no other duties or trade work. A secondary worksite superintendent may be required, who may or may not perform additional duties in addition to worksite superintendent activities.

End of *Definitions*

# BID INSTRUCTIONS

1. Bidder Representations: By signing and submitting a bid, the bidding company's (the Bidder's) Principal represents he/she has read and understands these *Bid Instructions* as well as the work to be performed and the conditions under which the Contractor shall perform the work included in the Contract Documents (*Contract Agreement*, Exhibits A through G, specifications and drawings, forms and any other referenced documents therein) and the bid is made in accordance therewith. The Bidder's principal certifies the bid submitted is based upon the materials, equipment and systems specified in the Contract Documents, as amended by any addendum, and incorporates all costs necessary for the successful completion of the work to be performed in the stipulated time. Bidders are expected to examine the solicitation documents thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the solicitation. Failure to do so will be at the Bidder's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the solicitation documents shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by addendum. Bidder assumes responsibility for any patent ambiguity in the solicitation documents that Bidder does not bring to the District's attention.

2. Bidder Licensing: By submitting a bid, the Bidder's principal certifies, to the best of its knowledge and belief, that the Bidder has met the licensing requirements for the State of South Carolina, is not debarred or suspended by any governmental entity or the State of South Carolina, and is eligible to submit a bid to and perform construction work for Horry County Schools ("the District"). The Bidder further represents all subcontractors stated on the *Official Bid Form* or subsequently enlisted to perform a portion of the work outlined in the Contract Documents also meet all licensing requirements of the State of South Carolina as may be required, and are not debarred or suspended from submitting a bid or performing construction services for any governmental entity or the State of South Carolina. Bidders and their subcontractors are advised the District shall report Contractor Licensing Law violations to the S.C. Contractors' Licensing and Regulations Board.

3. Solicitation Information from Sources Other than Official Source: South Carolina Business Opportunities (SCBO) is the official state government publication for State of South Carolina and Horry County School District solicitations. Any information on District solicitations obtained from any other source is unofficial and any reliance placed on such information is at the Bidder's sole risk. Once the initial notice has been published in SCBO, all additional information relating to the solicitations (addenda, award notices, etc.) will be posted on the District's Procurement website at https://www.horrycountyschools.net/Page/15007.

4. Bid Documents: Any potential Bidder is solely responsible for obtaining a complete set of Bid Documents (*Bid Instructions,* bid addenda and forms) as issued by the District and including the Contract Documents, which are an integral part of the bid process, from the posted source(s) as directed in the *Invitation for Bids*. The availability of these documents does not confer a license or grant permission for any other use of any portion of the Bid Documents or Contract Documents.

5. Pre-Existing Site Conditions: Before submitting a bid, the Bidder shall carefully review all documents and examine the worksite in conjunction therewith to ascertain site conditions affecting the performance of the work. If the Bidder receives a contract award but failed to make such examinations, the Bidder shall in no way be relieved of the obligation to comply in every detail with all provisions and requirements of the Contract Documents without additional compensation or time.

6. Interpretations and Clarifications: Requests for additional information or questions regarding error, omission or clarification of any portion of the Bid Documents or the Contract Documents or any addendum, shall be submitted in writing to the District Bid Contact Person stated in the *Invitation for Bids* by e-mail or facsimile no later than five (5) days prior to the bid opening date and time unless an earlier date is stated on the *Invitation for Bids* or as may be amended. Any interpretations, corrections, or changes to the Bid Documents or the Contract Documents made in any other manner than by a written addendum shall not be binding, and Bidders shall not rely upon them. Any information given a prospective Bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an addendum to the solicitation, if that information is necessary for submitting offers of if the lack of it would be prejudicial to other prospective bidders. See clause entitled "Bidder Representations." We will not identify you in our answer to your question. The District seeks to permit maximum practicable competition. Bidders are urged to advise the Procurement Specialist – as soon as possible – regarding any aspect of this procurement, including any aspect of the solicitation that unnecessarily or inappropriately limits full and open competition.

7. Pre-Bid Conference: While the District considers any scheduled pre-bid conference critical to understanding the bidding and project requirements and site conditions; attendance is non-mandatory unless otherwise stated in the *Invitation for Bids*; however, Bidders are responsible for ensuring they have received the information from the pre-bid conference site review provided in a subsequent addendum. The date, time and location of any pre-bid conference are stated in the *Invitation for Bids.*

8. Materials Standards and Substitutions: The materials, products, equipment, and processes described in the Contract Documents establish a standard of required function, dimension, appearance, quality and performance to be met. Bidders shall only bid NEW materials, products, equipment and processes unless the Contract Documents clearly state otherwise.

9. Addenda: Addenda shall be issued prior to the bid opening date and time for the purposes of modifying or interpreting the Contract Documents through additions, deletions, clarifications or corrections. No addendum shall be issued later than four (4) days prior to the bid opening date except to a) withdraw the *Invitation for Bids*, or b) to postpone the bid opening date and time. When an addendum is issued for the purposes of postponing the bid opening date and time, the addendum shall establish the new bid opening date and time no earlier than five (5) days after the addendum issue date. Addenda shall be posted on the on-line bidding source(s) stated in the *Invitation for Bids*. A Bidder shall acknowledge receipt of all addenda issued by identifying the addendum number and the date of issuance with the Bidder's initials in the spaces provided on the *Official Bid Form* or the bid shall be found non-responsive in accordance with the District's Procurement Code. If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

10. Authorization of Bidder: The legal name of the Bidder and the signature of the Bidder's Principal shall be affixed on the *Official Bid Form* and other documents requiring signature as part of the bid submission along with required notarizations. A bid submitted by an agent shall have a current written power of attorney attached certifying the agent's authority to bind the Bidder. Unsigned bidding forms shall render the bid non-responsive in accordance with the District's Procurement Code.

11. *Official Bid Form*: Bids shall be presented on the District's *Official Bid Form* or an identical copy. Bids submitted in response to this solicitation shall be in the English language and in US Dollars, unless otherwise permitted by the solicitation. To ensure a bid is considered responsive, a) all blanks or information requested shall be completed, b) any blanks not applicable to the bid or the Bidder shall have inserted in the blank the words "N/A" (not applicable) or "none" or other such designation, c) all issued addenda shall be acknowledged, and d) all insertions, alterations and/or erasures shall be initialed by an official representative of the Bidder. The base bid and any other pricing required shall be expressed only in numbers written legibly in ink. Non-legible numbers shall be subject to District interpretation, and the determination is final. Any modification to the requirements of the Contract Documents or any other Bidder conditions may render the bid non-responsive in accordance with the District's Procurement Code.

12. Bid Alternates: Bid alternates listed on the *Official Bid Form* constitute required pricing for additions, reductions, or modifications to the work specified in the base bid. Bidders shall bid all requested alternates listed and indicate whether the pricing is in addition to or a deduction from the base bid pricing or whether there is no change if the bid alternate is accepted by the District. If a Bidder fails to bid any alternate, the bid shall be found non-responsive. Bidders shall include in each bid alternate price all costs necessary to provide a complete, operable, functional, and fully integrated portion of work with the work in the base bid including any bonding, overhead and profit. Pricing shall not be conditioned upon the acceptance of any other bid alternate unless specifically stated by the District. The District reserves the right to reject any or all bid alternates or accept bid alternates in any order or combination.

13. Unit / Incremental Pricing: A Bidder shall stipulate all unit/incremental pricing requested on the *Official Bid Form* for potential additional work in unforeseen circumstances. Unit/incremental pricing shall be the installed price including all costs to the District such as, by way of illustration and not limitation, materials, labor, equipment, fees, taxes, or other such direct costs. Bonding, overhead and profit costs shall not be included in the pricing as these costs will be added when a *Change Order* is processed. The District shall have the right to require the Bidder to amend the unit/incremental pricing prior to contract award if, in the estimation of the District, the pricing provided appears inflated in relation to pricing of other bids submitted.

14. Allowances: Allowances specified by the District in the Contract Documents for a specified product purchase or work to be completed shall be included in the base bid or applicable alternate bid when computing the pricing. An allowance is a reimbursement, dollar for dollar, for actual costs incurred for the product purchase or performance of the work specified. Application of bonding, overhead and profit shall also be included in the pricing when incorporating the allowance.

15. Subcontractor Disclosure: The Bidder shall name on the *Official Bid Form* those subcontractors required by the District to be named. Any subcontractor who will perform a

portion of the work equal to or greater than three percent (3%) of the Contractor's bid shall be disclosed to the District prior to the execution of a contract. When the Bidder intends to perform any trade listed with the Bidder's own forces, the Bidder shall be named in the place of any subcontractor required to be listed. Failure to complete the list or listing a subcontractor that is not properly licensed (if required by LLC) shall render the bid non-responsive and is not subject to cure by substitution. Listing more than one (1) subcontractor or the Bidder and a subcontractor shall only be done when the work will be shared by both. All subcontractors, whether or not listed on the *Official Bid Form,* must meet the licensing and experience requirements stated in these *Bid Instructions* as applicable.

16. Subcontractor Conflicts of Interest: A Bidder shall not list as a subcontractor any representative, agent, or employee of the District or the Architect/Engineer without written approval of the District, in advance. No representative, agent or employee of the District or the Architect/Engineer shall have more than a five percent (5%) interest in the Bidder's or any subcontractor's business used in the performance of the work without approval of the District. No representative, agent or employee of the District or the Architect/Engineer having official responsibility in the procurement process shall receive any payment, loan, subscription, advance, deposit of money, services, offer of employment or anything else of greater than a nominal value (in excess of $25.00). The Bidder, nor any subcontractor proposed in the *Official Bid Form*, shall have provided any consultant services related to the designs of the work to be performed or product specifications which would render that entity ineligible to bid in accordance with the District's Procurement Code.

17. Subcontractor Substitution: The District shall have the right to reject any subcontractor that ordinarily appears to meet the requirements but, unknown to the Bidder, is not acceptable to the District at the time of bid submission. Substitution of an unacceptable subcontractor shall be in accordance with the District's Procurement Code. If, at the bid opening, the Contractor lists a subcontractor who, at the time the bid was submitted, was not sufficiently licensed under State law to perform the work for which it was listed as the subcontractor, the bid shall be considered non-responsive unless allowed by the District under Paragraph 30.

18. Use of Minority and Economically Disadvantaged Subcontractors: The District encourages the Bidder's use of minority-owned and women-owned businesses as subcontractors provided they meet all the requirements of the *Bid Instructions*, as applicable.

19. Bid Security: Each bid shall be accompanied by bid security pledging the Bidder shall enter into a contract with the District on the terms stated in the Contract Documents and has the ability to furnish bonds covering the faithful performance of the contract and payment of all obligations arising thereto. Bid security shall be in an amount not less than five percent (5%) of the total bid price including all allowances and bid alternates and shall be made payable to the District. Each Bidder shall maintain such bid security in full force and effect until such time as a) the Contract Agreement has been executed and a *Performance Bond* and *Payment Bond* have been furnished to the District, b) the specified acceptance period has elapsed and the Bidder has refused the District's request to extend the acceptance period at the same bid price, or c) the District has rejected all bids. A Bidder who submits a bid security not meeting the requirements herein or in the District's Procurement Code shall be considered non-responsive except as may otherwise be provided for in the District's Procurement Code.

20. Bid Bond Requirements: Any bid bond submitted with a bid of one hundred thousand dollars ($100,000) or more shall be issued by a surety company licensed to conduct business in the State of South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability" and show a financial strength rating of at least five (5) times the total bid price including all allowances and alternates. For projects less than one hundred thousand dollars ($100,000), the issuing surety company shall have a "B+" minimum rating of performance and a financial strength of at least four (4) times the total bid price. The attorney-in-fact that executes the bid bond on behalf of the surety shall affix to the bid bond a current certified power of attorney.

21. Bid Security Forfeiture: Refusal or failure of the Bidder to a) enter into a contract; b) furnish a *Performance Bond* and *Payment Bond* as required; c) correct any bid deficiency; or d) provide any additional information when requested for determination of responsibility shall cause forfeiture of the amount of the bid security to the District.

22. Bid Submission: Bids delivered orally or via telephone, telegraph, e-mail, facsimile, or other such methods are not sealed bids and are unacceptable. Bids submitted in any other way than as required in these *Bid Instructions* shall be considered non-responsive in accordance with the District's Procurement Code.

23. Receipt of Bids: Bids shall be received at the location stated in the *Invitation for Bids* no later than the date and time published in the *Invitation for Bids*, as they may be amended by any addendum. Timely submission of a fully completed bid is solely the responsibility of the Bidder. It is the Bidder's responsibility to synchronize submission time with the District's official bid clock at the bid opening location to avoid late submissions.

24. Sealed Bid Packaging: *If hard bids are being accepted via hand-delivery or through the mail*, the documents required for bid submission shall be enclosed in a sealed, opaque envelope before delivery, mailing, or insertion into any express carrier envelope or packaging. The exterior of the sealed, opaque envelope shall be clearly marked with a) the project name and project/bid number, b) the Bidder's name and address, c) the Bidder's Contractor license number, and d) the words "SEALED BID" in bold print. The Bidder shall assume full responsibility for the correct packaging and identification of the sealed bid to prevent exposure of bid pricing prior to the official bid opening date and time. Any premature opening of a bid shall be handled in accordance with the District's Procurement Code.

25. Vendor Registration Mandatory: The District has implemented an online, electronic bidding system to receive bids and proposals from prospective offerors. In order to submit offers in response to posted solicitations, prospective offerors must be registered through this electronic system. Registration can be completed through the following link: https://vrapp.vendorregistry.com/Vendor/Register/Index/horry-county-schools-sc-vendor-registration . Once registered, suppliers must keep their information current.

26. On-Line Bidding Instructions: (a) Mandatory Registration: You must register before you can submit an offer online. See clause entitled "Vendor Registration Mandatory". To register or submit and offer, please visit the following site: https://vrapp.vendorregistry.com/Vendor/Register/Index/horry-county-schools-sc-vendor-registration . (b) Once registered and signed into the system, choose the solicitation you wish to respond to. The system will provide the necessary steps to obtain the required information from the Bidder. (c) To confirm your offer has been submitted, you should receive an email notification from cservice@vendorregistry.com with the subject line "Vendor Bid File Submittal". Only offers with an email status of "Vendor Bid File Submittal" have been received by the District.

If you experience any issues, contact Vendor Registry Support Team by email at cservice@vendorregistry.com or toll free at 844-802-9202. PLEASE NOTE: Do NOT wait until the last minute to enter your submission. Registration for new contractors can take up to three (3) days.

27. Electronic Files – Required Media and Format: Documents and/or electronic files submitted shall contain the solicitation number and the offeror's name and be compatible with Microsoft Office (version 2003 or later) or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, and print electronic documents without a password. If required by the solicitation, your business and technical proposals must be within separate files.

28. Bid Acceptance Period: Any bid submitted shall be binding on the Bidder and irrevocable by the Bidder for forty-five (45) days following the bid opening date and time. No required Bid Documents, including any bid security, shall be modified, withdrawn or cancelled by the Bidder during this acceptance period. In order to withdraw a bid after the minimum time period specified, the Bidder must notify the Procurement Officer in writing.

29. Withdrawal or Modification of a Bid: Withdrawal or modification of a bid prior to or after the bid opening date and time shall only be done in accordance with the District's Procurement Code. Negligence or error on the part of any Bidder in preparing a bid confers no right of withdrawal or modification after the bid opening date and time. No Bidder who, at the District's discretion, is permitted to withdraw a bid shall in any way benefit from the contract later awarded.

30. Bidder Responsiveness: For a bid to be considered by the District, the Bidder shall first be determined by the District to be responsive to the bid requirements. Any bid which fails to conform in all material respects to the essential requirements of the *Bid Instructions* and the required forms shall be considered non-responsive and rejected as provided for in the District's Procurement Code. A bid may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. The District may also reject a bid as unresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the District even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment. A bid is also non-responsive if, at the bid opening, the Contractor lists a subcontractor who, at the time the bid was submitted, was not sufficiently and appropriately licensed under State law to perform the work, and such non-responsiveness is not subject to cure by substitution. Any bid which the District is prohibited by law from considering shall be rejected as non-responsive unless allowed by the District under Paragraph 30.

31. Bidder Responsibility: For a *Contract Agreement* to be executed, the Bidder shall also be determined by the District to be responsible. The District may make any and all reasonable investigations deemed necessary and proper to determine the ability of the Bidder to perform the work timely and to the satisfaction of the District. A determination of responsibility focuses on whether the Bidder has the necessary facilities, resources, qualifications, and ability to provide the work specified in the Contract Documents in a satisfactory and timely manner. For a Bidder to be deemed responsible, it must have the capability in all respects to fully perform the contract requirements, and have the integrity and reliability to assure timely good faith performance, which may be substantiated by past performance. Factors used to assess responsibility may include, by way of illustration and

not limitation, a) availability of appropriate finances, material, equipment, facilities, expertise, and personnel resources, or the ability to obtain them, necessary to meet all contractual requirements; b) a satisfactory record of performance and integrity with the District and other governmental entities; c) no outstanding debts owed nor any judgments in the past five (5) years or currently pending with the District or any other entity; d) the capability of legally contracting with the District or the State of South Carolina; e) Bidder and subcontractors being properly qualified and eligible to contract for the work as stated in the next paragraph; f) supplying all necessary, required and requested information within forty-eight (48) hours of the request by the District; and g) submit to a very detailed bid evaluation process administered by the District which includes all subcontractors.

32. Minimum Contractor Qualifications Required: The District reserves the right to reject any Bidder as non-responsible if the evidence submitted by the Bidder or any investigation of the Bidder fails to satisfy the District of the responsibility factors in the previous paragraph and, by way of illustration and not limitation, the following:

A. The Bidder's experience, skill, and ability, to perform the work required as well as the experience, skill, and ability of key personnel. At least one principal of the business shall have a minimum of ten (10) years of documented commercial construction experience or an equivalent of five (5) years of documented school construction experience. The Contractor's project manager and worksite superintendents as well as all subcontractors shall each have a minimum of five (5) years of documented commercial construction experience or as required in the *Contract Agreement*.

   The Project Manager (and Project Superintendents) are to be 100% assignable to this Horry County Schools project. The proposed Manager and Superintendent must have worked a minimum of two (2) years for the General Contractor naming them in their bid. Both must have experience working on construction projects in close proximity to and/or within occupied and operating facilities.

   The District understands the importance of good planning and management. As such, the qualifications for both the Project Manager and the Superintendent will be a significant portion of the Contractor evaluation in determining "responsibility" as it relates to the selection process of the selected General Contractor. Therefore it is the District's anticipation that the Project Manager will be familiar enough with the project and project demands that he/she can organize and oversee the responses during the District's evaluation process for the General Contractor as specified in paragraph 27 of the *Bid Instructions*.

   The District requirements for staffing the project listed in the *Contract Agreement* are to be considered the minimum amount of key supervisory staff assigned to the project. The Contractor, with his in-depth knowledge of building facilities projects must allocate the necessary personnel to deliver the project in a timely, safe, and quality manner.

B. The Bidder and subcontractors having and maintaining a valid Contractor's license with the South Carolina Contractors' Licensing and Regulations Board at an appropriate level for the project being bid or the portion of work to be performed, as may be required. Contractors and subcontractors shall have been licensed by the South Carolina Contractors' Licensing Board (or contractors' licensing agency of another state, in equivalent categories) for a minimum of five (5) consecutive years immediately prior to the bid submission in the construction field or discipline the Contractor or subcontractor will be performing.

C. The Bidders' ability to meet the required insurance and bonding requirements. The Contractor shall have a minimum aggregate available bonding capacity of at least twice the value of the project being bid and shall provide proof of such available bonding capacity as part of the bid submission. The insurance coverage shall be specific to the project as stated in the *Contract Agreement* with the District and Architect/Engineer listed as additionally insured. The Contractor must also have an experience modifier rate (EMR) not greater than 1.00 unless allowed by the District under Paragraph 30.

D. The demonstrated ability of the Bidder and the listed subcontractors to perform construction work promptly within the time specified, without delay or potential default.

E. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder and the listed subcontractors and their key employees, owners, directors, officers or others associated with them.

F. The quality of the Bidder's and listed subcontractors' past and present performance on other contracts entered into and the Bidder's experience with projects similar to the one identified in the Contract Documents.

G. Any current contract between the District and the Bidder or any listed subcontractor in compliance with all terms and conditions of the contract.

H. The Bidder or any listed subcontractor not currently debarred from doing business with the State of South Carolina, the District or any other governmental entity.

I. Any amounts due and payable to the District by the Bidder or any listed subcontractor paid in full prior to the bid submission.

33. Right of Waiver: The District reserves the right to waive any requirements of the previous *paragraph(s)* or any informalities or irregularities in any bid received and award a contract which, in the District's judgment, is in the best interests of the District and in accordance with the District's Procurement Code.

34. Notice of Intent to Award: It is the intent of the District to award a contract to the lowest responsive and responsible Bidder provided the funds are appropriated by the Horry County Board of Education, and the bid does not exceed the funds available. The District expects to post a *Notice of Intent to Award* for this project electronically within thirty (30) calendar days of the bid opening date and time on the District's website page at https://www.horrycountyschools.net/Page/15007 and any other bid posting locations stated in the *Invitation for Bids*. A *Notice of Intent to Award* with bid tabulation shall also be faxed or e-mailed to all Bidders at the time of posting.

35. Contract Award: A *Contract Agreement* shall not be executed between the Contractor and the District until one (1) business day after the completion of the protest period. The *Notice of Intent to Award* is not an authorization for commencement of work but only serves as a public notice of the District's intention to award a contract. A *Notice of Intent to Award* may be rescinded if a) funds for the project become unavailable or the project pricing exceeds the available funding as determined by the Horry County Board of Education; b) further information is brought to the District's attention leading to a determination of Bidder non-responsibility; or c) a protest decision requires rescinding of the *Notice of Intent to Award* or rebidding. The successful Bidder providing services without a fully executed *Contract Agreement* does so at its own risk and expense, and the District shall not be liable for payment of any work performed or the cost of any materials unless the fully executed *Contract Agreement* has been issued to the Bidder.

36. Vendor Registration: Bidders who have not provided products/services to Horry County Schools in the past or have not updated your company's profile with the District via a completed vendor application and W-9 within the past three (3) years, please complete the vendor application along with the W-9 and submit with your offer. The forms are online at: https://www.horrycountyschools.net/Page/10671 .

37. Governing Law: The bidding process and any subsequent contract executed shall be governed by the District's Procurement Code and the laws of the State of South Carolina. A copy of the Procurement Code is available on the District's website at: https://www.horrycountyschools.net/cms/lib/SC02209139/Centricity/Domain/3189/Procurement_Code.pdf. All Bidders are encouraged to read the Procurement Code as it relates to the construction bidding and contracting processes prior to submitting a bid.

38. Ethics Certificate: By submitting a bid, the Bidder certifies that the Bidder has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for official gain; Section 8-17-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The District may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

39. Prohibited Communications and Donations (modified): Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law. (a) During the period between publication of the solicitation and final award, potential and actual Offerors (including any subcontractors or sub-consultants) must not communicate, directly or indirectly, with the District or its employees, agents, or officials (including members of the School Board and/or the District Selection Committee) regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Specialist. All communications must be solely with the Procurement Specialist. (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the District during the period beginning eighteen months prior to the Opening Date.

40. Non-Collusion Clause: By submitting a signed bid, the Bidder certifies the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the bid prices. The Bidder further certifies the Bidder is not party to any collusive action or any action which may be in violation of any federal or state antitrust act, nor has the Bidder offered or received any kickbacks or inducements

from any other Bidder, supplier, manufacturer, or subcontractor in connection with the bid to be offered to the District. Any and all bids shall be rejected if there is any reason for believing collusion exists among the Bidders which may be a violation of Federal or State antitrust acts. The District may or may not, at its discretion, accept future bids for similar work from Bidders suspected of collusion.

41. Bidding Expenses: All costs associated with a) ordering documents, b) attendance at any pre-bid conference(s) or other bid meetings, c) worksite observations, d) preparation and presentation of a bid, e) supplying any documentation required by the District for purposes of determining Bidder responsibility or in relation to any protest or appeal, or f) any other costs incurred prior to execution of a *Contract Agreement* is solely the responsibility of the Bidder.

42. Protest Procedure: Any Bidder who feels he/she has been aggrieved in connection with this solicitation, an addendum to the solicitation, or the subsequent award of a contract has a right to protest and to present an appeal in accordance with the District's Procurement Code. Any formal protest shall be submitted to the District's Procurement Officer, in writing, within the required number of days from the date of the solicitation, an addendum or the award, whichever is at issue. The aggrieved individual may contact the District Procurement Officer for details or may view the District's Procurement Code at: https://www.horrycountyschools.net/cms/lib/SC02209139/Centricity/Domain/3189/Procurement_Code.pdf. Nothing in these *Bid Instructions* shall preclude the District from requiring a bond in conjunction with any protest or appeal or other activity connected hereto.

End of *Bid Instructions*

# MEDIUM FORM CONTRACT AGREEMENT

| THE DISTRICT: | CONTRACTOR: | CONTRACT DATE: |
|---|---|---|
| Horry County Schools<br>335 Four Mile Road, P.O. Box 260005<br>Conway, South Carolina 29528-6005<br>Phone: 843-488-6711 | Phone: | PROJECT NUMBER: 2021-12RF<br>PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE)<br>CONTRACT VALUE: |

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* 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. Failure by the District to enforce any provision of the contract documents shall not be construed as a waiver of any such provision and 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. All difficulties inherent in construction activities cannot be foreseen during design and solicitation of a project; therefore, the District reserves the right to make changes in the work without invalidating the *Contract Agreement*. (Requirements for any *Change Order* are provided in Exhibit E.) Forms contained in the contract documents are the official forms intended for use in preparation and administration of the contract.

2. District Representatives' Authority: The District's assigned Contract Manager and project representative(s) identified in the *Scope of Work (Exhibit A)* shall provide administration of the contract documents and, along with the Architect/Engineer, shall act on behalf of the District only to the extent of a) the terms and conditions of the contract documents; b) their respective duties; and c) the authority granted to them in accordance with their respective positions with the District or through a contractual agreement. Neither the Architect/Engineer nor the District's representatives have any independent authority, either expressed or implied, to amend the contract documents, either orally or in writing. To be official and binding, amendments shall only be made by *Change Order* based upon the requirements in Exhibit E.

3. Contractor Status; Acts, Errors, Omissions: The Contractor shall be legally considered an independent contractor and neither the Contractor nor any subcontractor or supplier shall, under any circumstances, be considered employees, representatives, or agents of the District or the Architect/Engineer. 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 materials, equipment or processes to be incorporated into the work. The Architect/Engineer and the District shall at no time be legally responsible for any negligence or other acts by the Contractor, any subcontractor, any supplier, or anyone enjoined to them. Errors, omissions, and inconsistencies discovered in the contract documents shall be reported to the District, in writing, within twenty-four (24) hours of discovery for appropriate resolution. If the Contractor performs any work involving a recognizable error, omission, or inconsistency without first notifying the District for a determination, the Contractor shall assume responsibility for such performance and bear appropriate costs for correction.

4. Ownership of Documents: Under separate contract with the Architect/Engineer, the District has ownership of all specifications and drawings in relation to the project. Neither the Contractor nor any other entity shall claim ownership or copyright of any drawings, specifications or other contract documents prepared by the District or the Architect/ Engineer. This requirement survives completion/termination of the *Contract Agreement.*

5. Maintenance and Auditing of Contractor's Records: The Contractor shall prepare and maintain project records as required by the District, acceptable accounting standards, and applicable laws for a period of three (3) consecutive years following completion of the project as evidenced by the date of final payment to the Contractor. The District or any agent of the District has the right to audit the Contractor's project records at any time. The Contractor shall ensure all project records are available for inspection at the location specified by the District within seventy-two (72) hours of notice at no additional cost to the District. This requirement shall survive termination/completion of the contract.

6. Required Meetings: At the request of the District, a pre-construction conference may be scheduled prior to work commencement with the Architect/Engineer and representatives of the Contractor, including the worksite superintendent, and subcontractors. In addition, construction meetings during the progress of the work shall be held as often as required in the *Scope of Work (Exhibit A)* with the Contractor's worksite superintendent and subcontractor representatives, at which the Contractor shall provide a) a progress report as it relates to the approved construction schedule, b) any scheduling changes, c) performance issues, problems or delays encountered and resolutions, d) District scheduled activities or other needs at the worksite, and e) any other aspects of the work deemed to have a potential impact on the date of substantial completion. Other meetings may be required with regulatory authorities or the District's Board of Education. All such meeting requirements shall be adhered to by the Contractor at no additional cost to the District.

7. Building Permit and Other Permits and Fees: No general building permit is required in accordance with § 6-9-110 of the South Carolina Code of Laws; however, the Contractor shall be required to provide any mechanical, electrical, plumbing or other permits required for purposes of inspection at no additional cost to the District. Except for permits and fees which are the responsibility of the Contractor in the contract documents, the District shall secure and pay for necessary approvals, easements, assessments, utility impact fees, and other fees/charges required for the successful completion of the work.

8. Verification of Worksite Measurements and Conditions; Surveys: The Contractor shall take worksite measurements and verify worksite conditions and shall carefully compare such measurements, conditions and other information known to the Contractor with all contract documents before commencing with the work. The Contractor shall establish all working lines, grades, and bench marks, appropriate to the work being performed, and shall be responsible for accuracy of same. The District shall furnish any necessary land surveys describing physical characteristics, legal limitations and utility locations for the worksite, if necessary to the performance of the work. From the information provided by the District, the Contractor shall develop and make all detailed surveys, as needed, for the performance of the work. The Contractor shall carefully preserve benchmarks, reference points and stakes and shall be responsible for mistakes which may be caused by the unnecessary loss or disturbance.

9. Conformance to Applicable Laws: The Contractor shall comply with and give notices as required by all applicable laws bearing on construction of school facilities including the a) most current international building, plumbing, mechanical, gases, and fire prevention codes (i.e., International Building Code effective in year 2003); b) National Electrical Code; c) South Carolina Energy Conservation and Efficiency Act of 1992; d) Underground Utilities Damage Prevention Act, South Carolina Statute 58-35-10; e) OSHA Standards, as applicable; f) SC Department of Transportation Access and Roadside Management Standards, as any of these standards may be amended. Where such requirements are inadequate, the Contractor shall use the most current NFPA Standards, American National Standards Institute or other recognized national standards. If the Contractor performs work knowing it to be contrary to any applicable laws without first notifying the District, in writing, for a determination, the Contractor shall assume full responsibility for such work and shall bear the costs of correction, fines or other fees.

10. Project Time and Work Commencement: By executing the *Contract Agreement*, the Contractor confirms the time limits established in the *Project Schedule (Exhibit D)* are reasonable for performing all work required. The Contractor shall proceed expeditiously with adequate forces to achieve the established completion date. The Contractor shall not commence operations prior to the a) commencement date established in Exhibit D, b) effective date of insurance required and evidenced by a valid *Certificate Of Insurance (Exhibit G)* provided to the District, or c) securing of SLED background checks on all Contractor and subcontractor worksite personnel, whichever is later. The date established for completion of the project shall not change should the effective date of any insurance or the acquiring of SLED background checks delay the commencement of the work.

11. Construction Schedule: The Contractor shall prepare and submit to the District an itemized construction schedule. The construction schedule shall a) incorporate the entire work to be performed; b) indicate the dates for start and completion of various elements of the work conforming to the time frames in *Project Schedule (Exhibit D)*; and c) not exceed the time limit established by the District for substantial completion of the project stated in the *Project Schedule (Exhibit D).* Any revisions to the construction schedule must be approved by the District to be binding and shall be adhered to by the Contractor and used in monitoring the progress of the work. When the progress of the work, at the District's sole determination, does not conform to the last approved construction schedule, the District shall have the right to withhold payment from the Contractor until the work is compliant with the approved construction schedule and the District is certain there is no further potential for slippage in the construction schedule impacting the completion date.

12. Submittals: The Contractor shall conform to any requirements for submittals stated in the contract documents and shall prepare a submittal schedule, which shall be coordinated with the construction schedule to allow adequate time for the Architect/Engineer and District to review and respond to the submittals. The Contractor shall review and approve and submit to the Architect/Engineer all shop drawings, product data, samples and similar submittals at least thirty (30) days prior to use to avoid delay in the work, and such

submission warrants the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, and has checked and coordinated the information contained within such submittals with the requirements of the contract documents. Work performed shall conform to the accepted submittals. The Contractor shall not be relieved of responsibility for errors or omissions in submittals by the acceptance of the Architect/Engineer or District.

13. Shop Drawings Requirements: Shop drawings shall be accurate to a scale sufficiently large enough to show all pertinent aspects of the equipment and its connections. Shop drawings shall be submitted for review in the number of copies and on medium required by the Architect/Engineer at least thirty (30) days prior to intended use. The review and acceptance of shop drawings shall not constitute approval of safety precautions, of any construction means, methods, techniques, sequences or procedures or deviations from the contract documents.

14. Maintenance of Record Drawings: The Contractor shall maintain at the worksite a copy of submittals accepted by the District and one (1) record copy of the contract documents, including approved changes, marked currently to record changes and selections made during performance of the work. Such record copy of drawings with all recorded changes shall be provided to the District at final completion of all work.

15. Award of Multiple Contracts: The District reserves the right to bid and award separate contracts for portions of the work, perform work with its own forces, or perform construction or 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. The Contractor shall participate with other contractors, the Architect/Engineer, and the District shall promptly report to the District apparent discrepancies or defects in the construction work of the District or other contractors which would render it unsuitable for the Contractor's work. Failure of the Contractor to report such defects shall constitute an acknowledgment the District's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's portion of the work, except as regards latent defects. If any dispute arises between the Contractor and the District's own forces or other contractors, the District shall mediate such disputes and equitably charge any costs to the responsible parties.

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

17. Supervision and Labor; Alien Workers: The Contractor shall provide and pay for all labor necessary for proper execution and completion of the work. The day-to-day supervision and control of the Contractor's employees is the sole responsibility of the Contractor. The Contractor 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 any State of South Carolina immigration and alien work requirements, including any requirements for reporting illegal aliens. A minimum of two (2) employees and the worksite superintendent shall be fluent in spoken and written English.

18. Work Scheduling: The Contractor shall maintain a full crew of competent employees and subcontractors on the project full time. At a worksite with an occupied building under repair or renovation or other facilities used on a regular or intermittent basis, normal working hours may vary. The District reserves the right to adjust work hours when such work in progress interferes with the educational process, athletic events, District operations or traffic patterns; therefore, work scheduling shall be flexible to include weekends and evening hours when necessary without additional cost to the District. The Contractor shall ensure this requirement is a part of any subcontract agreements.

19. Davis-Bacon Act: If any federal funds are used for the project, the Contractor shall abide by all federal requirements of the Davis-Bacon Act, as may be amended.

20. Drug-Free Workplace: The Contractor shall be responsible for initiating, maintaining and supervising all drug-free programs conforming to Title 44, Chapter 107, § 44-107-10 through § 44-107-90 of the South Carolina Code of Laws, as may be amended.

21. Conflict of Interest: The Contractor shall not employ any owner, director, representative, agent or employee of the Architect/Engineer or the District to perform any work, directly or indirectly, full-time or part-time without approval of the District.

22. Compliance with Employment Laws: By entering into a *Contract Agreement*, the Contractor agrees to abide by all applicable laws 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, in all solicitations or advertisements for employees, shall state the Contractor is an "Equal Opportunity Employer." The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices of this nondiscrimination clause and shall include the provision of this paragraph in every subcontract or purchase agreement of more than $10,000.

23. Employment Taxes and Benefits: The District shall not withhold from the contract payments any Federal or State income taxes, or any employment-related taxes normally withheld on the District's employees. Further, the District shall not provide any employment related insurances or other benefits such as worker's compensation for the benefit of any Contractor, subcontractor or supplier employees.

24. Project Key Staff – Project Manager: If required by the District, the Contractor shall assign a skilled, experienced project manager to the project. The project manager shall secure the materials of proper quality and quantity to meet the contract documents and manage the appropriate timing of all materials, sub-contracted work, and Contractor provided labor to ensure the continual progress of the work to meet the substantial completion date. The Contractor shall not change the project manager identified in the *Scope of Work (Exhibit A)* during the course of the project without approval of the District.

25. Project Key Staff -- Worksite Superintendent: The Contractor shall employ a competent worksite superintendent, who shall be in attendance at the worksite at all times during performance of any work and during delivery of any materials. The worksite superintendent may perform other minimal duties such as the duties of OSHA Compliance Officer, if approved by the District; however, such duties shall not be at the expense of the duties required of a worksite superintendent. The Contractor shall not change the worksite superintendent identified in the *Scope of Work (Exhibit A)* or the duties or status of same without District approval. The worksite superintendent shall enforce strict discipline and good order among the Contractor's representatives, agents, employees, subcontractors and suppliers and shall conduct frequent inspections to ensure work performed is in accordance with the contract documents at all times and in all respects. The worksite superintendent shall perform random testing of work completed to ensure a) the quality and quantity of work completed; b) subcontractor requests for payment do not exceed the actual percentage of work completed; and, c) the appearance of work completed is a true representation of actual work completed.

26. Worksite Communications: The project manager and worksite superintendent are representatives of the Contractor and communications given to them, either orally or in writing, shall be as binding as if given to the Principal of the Contractor.

27. Subcontractor & Supplier Relationship to the District: Nothing in the contract documents shall infer any contractual relationship between the District and any subcontractor, supplier or other entity under agreement to the Contractor except as it relates to warranties or specifically provided for elsewhere.

28. Subcontractor Administration and Contractual Requirements: The Contractor shall provide to the District a list of all subcontractors along with addresses, contact information, trade or portion of work responsible for, and minority status. Any change in subcontractors during the term of the contract shall be in accordance with the District's Procurement Code and requires approval of the District. The Contractor shall warrant to the District, by execution of the *Contract Agreement,* each subcontract shall a) preserve and protect the rights of the District, b) assume all the obligations and responsibilities the Contractor assumes, and c) assume all rights, remedies and redresses against the Contractor which the Contractor has against the District. The Contractor shall make available to each subcontractor, prior to execution of a subcontract, a copy of this *Contract Agreement*.

29. Contractor Legal Requirements Pertaining to Subcontractors: The Contractor shall abide by all applicable laws pertaining to the treatment and timely payment of subcontractors even when payment to the Contractor may be withheld. The District shall have the right to furnish any subcontractor a copy of the Contractor's payment bond and information regarding percentage of work completed and paid to the Contractor relative to the work done by the subcontractor. Regardless of rights expressed herein, the District shall not be obligated to pay any subcontractor except as required by applicable laws.

30. Provision of Materials, Equipment and Other Facilities: The Contractor shall provide and pay for a) all tools, materials, equipment, scaffolding, fencing, signage, rented or owned construction equipment and machinery or other such equipment necessary for proper execution of the work; b) potable (drinking) water as well as temporary water for the project separate from any existing building's water source; c) temporary lighting and power including temporary power panels, wiring, lamps, outlets for power equipment, or other such needs for electrical power; d) telephones or other communication equipment; e) sanitation facilities and access to food and drink vending, as appropriate to the duration of the project; f) transportation; g) sales tax, shipping and handling; and h) any other materials, equipment, facilities and services necessary for the proper execution and completion of the work, whether temporary or permanent. Approval of any use of District facilities shall be identified in the *Scope of Work (Exhibit A)*.

31. Materials Conformance: By execution of the *Contract Agreement*, the Contractor warrants to the District that the materials and equipment to be incorporated into the work shall a) be of good quality, undamaged, and new (not used or remanufactured unless

otherwise required or permitted by the contract documents); b) be free from defects (excluding latent defects); and c) conform to the contract documents. Materials and equipment not conforming to the contract documents, including substitutions not properly pre-approved and authorized by the District, shall be considered defective. Such substitutions shall be replaced by the Contractor at no additional cost to the District and no extension of contract time. The worksite superintendent shall inspect and perform random testing of all materials and equipment to ensure quality and conformance with the contract documents. The Contractor shall also not allow use of: a) asbestos containing products, temporary or permanent, even if they are non-friable, contain only minimal amounts of asbestos, and can be legally installed; and b) lead materials in paints or public water applications. "Lead-free" solder, flux, and pipe containing less than two-tenths of one percent (0.2%) lead and valves, pipes and appurtenances containing less than eight percent (8.0%) lead shall be used in all public drinking water applications as outlined in the 1986 amendments to the Safe Drinking Water Act.

32. Stored Materials: Stored materials and equipment refers only to those purchased for incorporation into, and becoming an integral part of, the completed work. Such materials and equipment shall be suitably stored to ensure the preservation of their quality and fitness for the work, and the Architect/Engineer and District shall have full access to all stored materials for verification of quality and quantity. The District reserves the right to designate "lay down" locations at the worksite where materials and equipment shall be stored, and such lay down areas shall be completely fenced and secured at all times. The Contractor shall not store materials in a concentrated area on the roof of any building. Tarps may be used to prevent damage by weather conditions; however, polyethylene shall not be used in lieu of tarps. Materials and equipment maintained off-site shall be suitably stored in a bonded, insured warehouse, at no additional cost to the District, and proof of warehouse bonding, insurance, quality, quantity and value shall be provided to the District upon request.

33. Certification of Authorized Installer; Professional Certifications: All manufactured or fabricated materials and equipment shall be applied, installed, connected, erected, cleaned, conditioned and handled in strict accordance with the requirements of the manufacturer, fabricator or supplier so as not to nullify any warranties provided. Upon request of the District, 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 materials or equipment. When professional certification of performance criteria for materials, systems, or equipment is required by the contract documents, the District shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

34. Title to Materials, Equipment and Processes: Any property acquired or constructed under this *Contract Agreement* is considered public property and is, therefore, not subject to any mechanics liens or other such claims. The Contractor warrants, at the time each *Payment Request (Exhibit F)* is submitted for payment, title to materials and equipment suitably stored and incorporated into the work shall pass to the District. This provision shall not be construed as relieving the Contractor of the sole responsibility for the a) care, protection and proper storage of the materials/equipment upon which payment has been requested or made; b) correction of any deficiencies; and c) restoration or replacement of any damaged or improperly installed materials or equipment.

35. Worksite Access: The Contractor shall confine operations at the worksite to areas designated by the District, and shall not encumber the worksite with materials or equipment which hamper ingress to or egress from the worksite or its buildings and facilities. Access of the Contractor, subcontractors and suppliers shall be limited to designated areas where the work is in progress. Access to other occupied areas of buildings and facilities shall only be for the purposes of spotting, clean-up, damage inspection, or communication with the Principal in the event of an emergency. No other communication with any occupants of an existing building or facility shall occur. All site communications shall be made with the Architect/Engineer or District project representatives only.

36. Worksite Clean-Up: The worksite premises shall be maintained in a neat and orderly condition and kept free of accumulations of refuse materials and debris during the entire performance of the work. The worksite superintendent shall ensure all refuse and debris are deposited in commercial refuse containers and removed from the premises at regularly at no additional cost to the District. At completion of the project, portable sanitary or other temporary facilities, construction refuse containers, debris, and all Contractor/subcontractor tools, equipment, machinery, surplus materials, or other such items shall be removed from the worksite. If the Contractor fails to clean up the worksite as the District or Architect/Engineer feels appropriate for safety or other reasons or at the completion of the work, the District may provide for cleanup and disposal, and deduct such costs from the Contractor's payment.

37. Existing Building Safeguards: When renovations or repairs are required to an existing building, the Contractor shall be solely responsible for protecting the existing building and its contents from damage. The worksite superintendent shall inspect the existing premises daily to ensure there is no damage in progress. Immediate corrective action shall be taken upon observation of any damage in progress, and the Contractor shall notify the District's project representative immediately. The Contractor shall also be responsible for safeguarding any other out buildings, athletic or other facilities at the worksite from damage, either directly or indirectly, as a result of the work being performed, the delivery or storage of materials and equipment, the use of construction equipment, or other Contractor, subcontractor and supplier activities.

38. Damages Remedy: The Contractor shall remedy all damages to any buildings or facilities, including building contents, due to the failure of the Contractor, any subcontractor or supplier to take sufficient precautions, either directly or indirectly, to safeguard against inclement weather conditions, water infiltration, the work being performed, or other causes of damage. The Contractor shall be responsible for all costs associated with restoring the building, its contents, or other facilities to no less than the condition prior to damage and the satisfaction of the District, including insurance deductibles or other costs not recoverable from the insurance carrier(s).

39. Responsibility for Work in Progress: The Contractor shall be solely responsible for coordinating all portions of the work and shall have control over construction means, methods, techniques, sequences and procedures implemented to accomplish the work unless the contract documents give specific instructions concerning these matters. The Contractor shall supervise and direct all aspects of the work to be performed using the Contractor's best skill and attention, whether the services are performed by the Contractor or any subcontractor. The Architect/Engineer, the District or any regulatory authority shall, at any time, have the right to inspect the progress of the work for quality of workmanship and conformance to the contract documents and applicable laws.

40. Demolition and Salvage of Materials and Equipment: The Contractor shall notify DHEC of all demolition activities even if asbestos is not suspected. The District reserves the right, before demolition, to salvage useable materials, equipment and processes from any building, or portion thereof, when such salvaging does not interfere with demolition activities or the progress of the work. After salvage by the District, the Contractor shall have the right to remove or sell any remaining materials, equipment or processes provided it does not delay the demolition or the work. The Contractor shall be responsible for removal from the worksite and disposal of all demolition debris.

41. Utilities Shutdowns: Prior to any shutdown of any electrical, mechanical, security, fire or other such systems, the Contractor shall notify the District's project representative not less than three (3) days prior to the scheduled shutdown. No shutdown shall occur without notification to, coordination with, and approval of the District, and the District's project representative shall be notified immediately of any accidental termination of such systems. The Contractor shall take immediate remedial action to bring such systems to full functionality. Shutdown of fire alarm and security systems shall not intentionally occur while the building is occupied, and fire alarm and security systems shall have repair priority.

42. Tests, Inspections and Approvals: Tests, inspections and approvals required by the contract documents or any applicable laws shall be made in a timely matter to avoid delay in the construction schedule or progress of the work. The Contractor shall give the District and Architect/Engineer timely notice of when and where tests and inspections are to be made so they may observe such procedures. Any required certificate of testing, inspection or approval shall be provided promptly to the District. The Contractor shall also be responsible for tests and inspections of portions of the work already performed to determine such portions are in proper condition to receive subsequent work and conform to the contract documents. The District shall have the right to require additional inspection or testing of the work, whether or not such work is fabricated, installed or completed, if the Architect/Engineer or the District considers it necessary or advisable for implementation of the intent of the contract documents. The Contractor shall cooperate with any additional inspection or testing of the work without any change in contract price or contract time.

43. Costs of Tests, Inspections and Approvals: The Contractor shall bear all related costs for tests, inspections and approvals, except for IBS inspections or those tests, inspections or approvals required of others in the contract documents and for which the District is responsible for payment. If tests or inspections reveal failure of the work to comply with requirements, the Contractor shall bear all costs necessary for correction, including repeated testing and inspection as well as for the additional costs to the Architect/Engineer, the District, and any regulatory authorities required as a result of the Contractor's failure. The Contractor shall reimburse the District one hundred and fifty dollars ($150) per hour per person for the Architect/Engineer's assistance and seventy-five dollars ($75) per hour per person for District assistance including travel time.

44. Architect/Engineer, District and Contractor Inspections: The Architect/Engineer and the District shall have the right to a) access, observe and inspect the work, materials, equipment, and workmanship for quality and conformance with the contract documents; b) access, observe and inspect off-site stored materials and equipment for quantity and quality; c) access the Contractor's records related to the work including, but not limited to, quality control reports, OSHA reports, payrolls, personnel records, SLED criminal background checks, materials and equipment invoices, receiving documents or other project relevant data, documents, or records; and d) require additional inspection or testing of the work if the District considers it necessary or advisable for implementation of the intent of the contract documents. No amount of review or inspection shall relieve the Contractor of the responsibility for conformance to the contract documents or shall constitute approval of any defective materials, equipment, process, or work.

45. Sub-Surface Conditions: If conditions are encountered at the worksite which are a) sub-surface or latent physical conditions differing materially from those indicated in the contract documents; or b) unknown physical conditions of an unusual nature or differing materially from those ordinarily encountered and generally recognized as inherent in the work to be performed, then the Contractor shall notify the Architect/Engineer of such conditions before they are disturbed. The Architect/Engineer shall investigate and, if the condition requires a change in contract price or time, a *Change Order* will be processed.

46. Contractor Responsibility for Defective Work: Neither a) final payment, nor b) any decision, approval or acceptance by the Architect/Engineer or the District, nor c) any other provision in the contract documents shall relieve the Contractor of responsibility for rectifying faulty materials, equipment, workmanship or omission of a portion of the work to be performed. The Contractor shall remedy any defects or supply any omissions and pay for any damage to other work resulting from such remedy. This responsibility shall survive completion or termination of the *Contract Agreement*.

47. Right of Rejection and to Stop Work: Rejection of any non-conforming work by the District or Architect/Engineer shall be corrected by the Contractor within ten (10) days at the expense of the Contractor or subcontractor, whichever is at fault, and without any contract time adjustment. If the work performed by the Contractor or any subcontractor is considered by the District or the Architect/Engineer not to conform to the contract documents or creates a condition that threatens the health, safety, or welfare of anyone, the District has the right to stop the work until the Contractor corrects the non-conforming work or condition creating the threat to safety. Any additional costs incurred as a result of the District's stoppage of work for any reason shall be the responsibility of the Contractor when the stoppage is precipitated by, but not limited to, action, non-action, omission, error, illegal conduct of the Contractor or any subcontractor or supplier or anyone enjoined to or under agreement to them, or any non-conforming work or unsafe condition. The Project Schedule will not be adjusted to account for correction of non-conforming work.

48. Uncovering Work: If a portion of the work is covered contrary to the requirements or request of the contract documents, applicable laws, or the District or Architect/Engineer to facilitate inspection, that portion of the work shall be uncovered for inspection and be replaced at the Contractor's own expense and time. If applicable laws, the District, the Architect/Engineer, or the contract documents do not request or require observation prior to that portion of the work being covered or for which no testing or inspections are required, it shall be uncovered by the Contractor, and costs of uncovering and replacement shall be paid by the District unless omitted, defective or non-conforming work of the Contractor or any subcontractor is revealed.

49. Contractor Removal and Correction of Work: The Contractor shall, within ten (10) days, supply omitted work or remove from the site portions of work not in conformance with the contract documents and correct, remedy, replace or re-execute work rejected by the District or the Architect/Engineer for failing to conform to the contract documents or to pass tests or inspections, whether or not fabricated, installed, completed or performed by the Contractor or any subcontractor. The Contractor shall bear all costs to correct, remedy, replace or re-execute the work, including costs of rectifying damage to the work of separate contractors, costs of additional tests or inspections, and any additional costs of regulatory authorities, the District or the Architect/Engineer made necessary as a result. The Project Schedule will not be adjusted to account for correction of non-conforming work.

50. District-Supplied Correction of Omitted or Deficient Work: In the event the Contractor fails, after notice, to supply omitted work or remove and correct deficient work within ten (10) days, the District shall have the right to supply omitted work, remove defective work and store any salvageable materials or equipment at the Contractors expense, order the correction of the defective work by separate contract or with its own resources at the expense of the Contractor, including any compensation for the additional services of the District, the Architect/Engineer or any regulatory authorities, and additional tests and inspections made necessary by such default or failure.

51. 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; b) fire; c) epidemics or quarantine restrictions; d) freight embargoes; e) acts of a public enemy; or f) other causes which the District determines, then the contract time may be extended, 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 impacted the worksite location such that no work could reasonably be in progress during the event and was a) unforeseeable, b) beyond the control and not the fault of the Contractor or any subcontractor.

52. 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 request 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 within ten (10) days from the end of the event causing the impact on the construction schedule or it shall not be considered. A request for adverse weather extension shall not be allowed after the date established for substantial completion.

53. 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 a delay is caused by a) conditions existing at the time bids were received and of which the Contractor might be reasonably expected to have full knowledge of at the time of bidding; b) failure on the part of the Contractor to anticipate properly the requirements of the work contracted for, as to materials, labor and equipment; c) failure on the part of the Contractor to properly schedule materials and subcontractors; or d) other such failures of the Contractor to properly administer the contract or mitigate conditions resulting in delays.

54. Liquidated Damages: The Contractor acknowledges and agrees the District is a public entity performing an essential public function and failure of the Contractor to comply with the *Contract Agreement* may cause general, special or consequential damages to the District, to those who shall occupy the completed work, and to the public at large. Should the Contractor fail to complete the project within the contract time, as may be extended by any *Change Order (Exhibit E)*, the District shall have the right to assess liquidated damages as a measure of damages reasonably expected by the District to be incurred and shall not be considered a penalty or retainage. The District shall not be responsible for any additional costs incurred by the Contractor to bring the progress of the work in conformance with the last approved construction schedule. Liquidated damages shall be assessed at the rate specified in the *Scope of Work (Exhibit A)* or actual costs attributable to such failure or delay, whichever is greater.

55. Schedule of Values: The detailed *Schedule of Values* is shown in Exhibit C allocating the entire contract sum to various portions of the work in a CIS cost breakdown.

56. Payment Requests: The Contractor shall forward two (2) original copies of the *Payment Request (Exhibit F)*, including supporting documentation, to the District for approval and processing no later than the 25th day of the month of the dated *Payment Request*. The itemized *Payment Request (Exhibit F)* submitted shall contain: a) Contractor's original signature with appropriate notarization; b) the updated/highlighted schedule of values; c) the last approved construction schedule with any requested changes highlighted; d) any invoices for which payment is being requested under an allowance, e) proof of insurance and bonding for any off-site warehouse containing stored materials for which payment is being requested, f) each subcontractor's invoice to substantiate the payment requested by the Contractor for those portions of work; and g) any other supporting documentation required by the *Contract Agreement* or the District to substantiate the request, which may include, but is not limited to, invoices or delivery tickets from suppliers, proof of payment to subcontractors and suppliers to date, receipts for rental equipment, labor sheets to support additional labor or additional hours of work, or other documentation.

57. Retainage: The District requires a retainage of three and one-half percent (3.5%) of the total contract price, as may be amended by any approved *Change Order (Exhibit E),* to be withheld from the Contractor's payments throughout the term of the *Contract Agreement* and payable at the time of final payment after a) full completion of all work to be performed and all requirements established in the *Contract Agreement* and acceptance by the District, b) submittal of all closeout documents, and c) submittal of an affidavit of payment of debts/claims, and if requested by the District, for every subcontractor who performed work on the project evidencing they have received final payment of undisputed work and retainage withheld. As a condition of the contract, no more than three and one-half percent (3.5%) shall be retained from the progress payments of any subcontractor by the Contractor until final completion of that portion of the work. The Contractor shall, at final completion, ensure no amount of the Contractor's retained funds is allocable to the completed and accepted work of any subcontractor nor to materials or equipment purchased from any supplier unless such amounts are in dispute and the Contractor has not requested payment for such disputed amounts to date. Such amounts in dispute shall be identified on the Contractor's affidavit of payment of debts/claims submitted with final documents.

58. Substantial Completion; Punch List: At the time of substantial completion, a punch list shall be submitted to the Architect/Engineer along with the substantial completion *Payment Request (Exhibit F)* for the remainder of the contract price excluding retainage, amounts in dispute that have not been resolved, and amounts owed to the District. Punch list items are expected to be relatively inconsequential items that can be completed easily and quickly prior to the final completion date established. The Architect/Engineer and District shall schedule and conduct a review to ensure the project has reached substantial completion and shall verify the punch list is accurate or make appropriate revisions. Failure

of the Architect/Engineer or District to include an item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the *Contract Agreement*. Should the Architect/Engineer or the District determine that all requirements for substantial completion have not been met to allow for regulatory authority inspection or the punch list represents more work than can be accomplished within the final completion period and, therefore, does not accurately represent substantial completion, the District shall have the right to a) notify the Contractor's Surety; b) assess liquidated damages, c) withholding payment, and d) any other remedies available to the District.

59. Substantial Completion Inspection: Once the actual substantial completion date has been established, the Architect/Engineer shall coordinate with representatives of the District and regulatory authorities a mutually acceptable date for project inspection. The Contractor shall not notify the Architect/Engineer and District the project is ready for inspection until, at a minimum, all life safety requirements (i.e., fire alarm and devices, exit/emergency power system and devices, kitchen facilities approved by DHEC, ADA handicap requirements, etc.) have been completed properly, if included in the work to be performed, or damaged during the progress of the work, and are fully installed and operational according to applicable laws. In addition, the Contractor shall have all mechanical, electrical and plumping installed and operational and all finishes complete, if included in the work to be performed.

60. Final Completion: The number of calendar days the Contractor has from the date of substantial completion to complete all final project requirements is stated in the *Project Schedule (Exhibit D)*. The Contractor shall proceed promptly to complete and correct items on the final punch list and shall cooperate fully with the Architect/Engineer and the District to facilitate closeout of the project. A final inspection shall be completed by the Architect/Engineer and District of the work. When all work is determined complete, the Contractor shall submit a final *Payment Request (Exhibit F)*, with all final documents to the District. The final *Payment Request* shall not be processed until all final documents/items are accepted by the District. Neither final inspection nor certification of the final payment shall constitute acceptance of any work not complying with the requirements of the contract documents. Failure to achieve final completion in the time period established shall result in reduction of the final payment for additional services required of the Architect/Engineer at the rate of one hundred and fifty dollars ($150) per person per hour and the District at the rate of seventy-five dollars ($75.00) per person per hour including travel time.

61. Final Payment and Release of Claims: Upon receipt and acceptance of all final documents by the District, the final payment shall be authorized less a) any amounts owed to the District including, but not limited to, liquidated damages; b) amounts owed to the District by the Contractor's or any subcontractor's failure to meet the conditions of the *Contract Agreement;* c) additional expenses incurred by the District and/or the Architect/Engineer from failure of the Contractor to meet required inspections or the need for subsequent inspections; and/or d) amounts owed to third parties reasonably expected to be paid as a result of the Contractor's or any subcontractors' failure to meet the requirements of the *Contract Agreement*. Final payment shall not constitute a waiver of any claim by the District for faulty workmanship identified after the final payment, a release of any obligations of the Contractor, any subcontractor, or any supplier under any warranty agreements, or a waiver of any other requirements of the *Contract Agreement* including those obligations of the Contractor's Surety, which may survive termination or completion of the project. Acceptance of the final payment by the Contractor shall be a release to the District of all claims and liability of the Contractor for all materials, equipment and work performed and every act, omission and neglect of the District, the Architect/Engineer, and others related to or arising out of the work except as may be provided for elsewhere in the *Contract Agreement* or granted by applicable laws.

62. Contractor Warranty: The Contractor shall warrant to the District any and all work performed conforms to the requirements of the contract documents or any amendment thereto, and such obligation shall survive termination or completion of the work and acceptance and final payment by the District. If any of the work is found not to be in accordance with any of the contract documents or defective during the warranty period, the Contractor shall correct such work within ten (10) days from receipt of written notice from the District. If the Contractor fails to correct such non-conforming work within ten (10) days from receipt of the District's written notification, the District shall have the right to seek other means to correct such non-conforming work at the expense of the Contractor.

63. 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.

64. Safety Programs and Protection: The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs including all OSHA construction safety standards and requirements. The Contractor shall take reasonable precautions for safety of and shall provide reasonable protection to prevent damage, injury or loss to a) the District, the Architect/Engineer, or their property while at the worksite; b) other contractors, subcontractors, students, parents, visitors, and other third parties or their property while at the worksite; c) the work, materials, and equipment under the care, custody, or control of the Contractor or anyone enjoined by or under agreement to the Contractor while located at the worksite either stored or incorporated into the work to be performed; d) any other District or neighboring property located at the worksite or adjacent thereto to include, by way of illustration and not limitation, trees, shrubs, lawns, walks, pavements, roadways, parking lots, portable classrooms, sheds, canopies, walkway coverings, structures, utilities or other such items not designated for demolition, removal, relocation or replacement in the course of the work being performed.

65. Safety Precautions: The Contractor shall furnish, install, erect and maintain, as required by existing conditions and performance of the *Contract Agreement*, reasonable safeguards meeting all applicable laws, including by way of illustration and not limitation, a) posting directional signs necessary for ingress and egress roads, danger signs and other warnings against hazards, and erecting barricades, fencing, scaffolding, steps, ramps, bridges, platforms, as necessary, and directional and warning signs and protective barricades around cranes, hoists, or other such mechanical equipment; b) erecting entrance/exit or other overhead protection to prevent debris or materials falling on employees, students or others, which shall be completely removed from the site upon completion of construction, and all holes and damage made as a result of such devices shall be refilled and repaired to the same condition as prior to commencement of the work; c) avoiding material or equipment loading on any roof endangering the occupants of any building or facility such that any placement of heavy equipment or materials on the roof of any existing building shall be done prior to or after building occupancy or the Contractor shall make arrangements with the District to vacate classrooms directly affected by such activity; d) promulgating safety regulations and notifying the District and any users of adjacent facilities of safety hazards. 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 Contractor shall immediately, correct such condition.

66. 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 be responsible for ensuring the Contractor, any subcontractor or any supplier comply with the following on District premises:

A. No drugs, alcohol, knives, firearms or other weapons.
B. No fraternizing with, threats to, or use of abusive or profane language in the presence of students, parents, visitors, Architect/Engineer or District.
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. Separate work activities from the occupied portion of any building and secure all work areas and equipment with safety fencing and appropriate signage.
G. Ensure minimal loss of utilities and facilities and minimal disruption of the educational process as required by the District.
H. Secure SLED (State Law Enforcement Division) criminal background checks on all Contractor and subcontractor employees, agents, and representatives at the worksite. The Contractor shall ensure no person having committed violent crimes, crimes against children, or crimes of moral turpitude are allowed access to the worksite.
I. Ensure the Contractor's and subcontractor's employees, whether full-time, part-time, or occasionally employed, wear identification tags specifically identifying them as part of the Contractor's or subcontractor's workforce.

Failure to meet the requirements of conduct stated in this paragraph may result in arrest and/or removal of the offending individual 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.

67. Traffic Control On-Site and Off-Site: The Contractor shall conduct its operations in a manner to not 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 and reduce to a minimum any hazard to traffic or pedestrians. 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 amended, to facilitate traffic control when work performed obstructs public traffic. When such traffic areas are obstructed by work in progress, workers equipped with flags shall

direct vehicle and pedestrian traffic and shall not be assigned any other duties while engaged in directing traffic.

68. Safety Designee; Fireguard: The Contractor shall designate a competent individual at the worksite whose duty shall be the prevention of accidents and the implementation and monitoring of all OSHA construction safety standards and requirements. The competent individual shall serve as spotter where there is exposure of pedestrians, students, parents, or visitors to falling debris and, in addition, shall ensure on a daily basis that all fencing or other safety barriers are in an upright position to prevent ingress and egress to "lay down" areas or work areas by unauthorized individuals. Special precautions shall be taken regarding fire protection and use of open flames from welders or other such equipment. Appropriate fire extinguishers shall be provided around open flames at all times. A fireguard shall be stationed at and beneath the points where open flames are being used. The fireguard shall be equipped with a water hose no smaller than one-half inch (1/2") in diameter with constant availability of water. The fireguard shall continue the fire watch for a minimum of one (1) hour after use of open flames, welders or other such equipment has ceased and shall remove cleaning agents, gasoline, or other such flammable liquids from the work at the end of each working day and store such items in a safe, secure area inaccessible to unauthorized personnel.

69. Hazardous Materials: When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the work, the Contractor shall exercise utmost care and such activities shall be under the supervision of properly qualified personnel. If reasonable precautions are inadequate to prevent bodily injury or death to individuals resulting from a material or substance encountered, the Contractor shall, upon recognizing the condition, immediately stop work in the affected area and report the condition to the District for resolution. The District is responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the material or substance and to verify that it has been rendered harmless or the District shall furnish a qualified entity to perform the task of removal or safe containment of such material or substance, if necessary. The District shall have the right to stop work, evaluate the premises, conduct abatement activities, and take other measures to render the worksite harmless so work can continue, and shall adjust the construction schedule and established completion date through an approved *Change Order (Exhibit E)* for the delay.

70. MSDS Sheets: The Contractor shall maintain on the worksite all MSDS sheets for any materials 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 MSDS instructions and OSHA requirements.

71. Emergencies: The Contractor shall provide the Architect/Engineer and the District with telephone numbers or other direct means of communication with the Contractor and the worksite superintendent in the event of an emergency. The Architect/Engineer or the District shall have the determination as to what constitutes an emergency that must be responded to by the Contractor or the worksite superintendent or others. In an emergency affecting the safety of individuals or property, the Contractor shall take immediate action to prevent and mitigate damage, injury or loss. Notice of any emergency shall be given to the District's project representative as soon as practicable but in no event more than eight (8) hours after the Contractor is first aware of such emergency conditions.

72. Hold Harmless Agreement: The Contractor shall indemnify and hold harmless the District and the Architect/Engineer from and against all claims, damages, losses and expenses, including attorney fees, arising out of or resulting from the performance of the work, 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 the loss of use resulting there from, and is caused in whole or in part by any negligent, omission, or act of the Contractor, any subcontractor or supplier. The obligation of the Contractor shall not extend to the liability of the District or the Architect/Engineer arising out of the preparation of maps, opinions, reports, surveys, project changes, designs, or specifications except as may be stated elsewhere in the *Contract Agreement*. The Contractor shall indemnify and hold harmless the District and the Architect/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, equipment, tools 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 any third party.

73. Insurances: Adequate insurance coverage is deemed critical to the award of a *Contract Agreement*. 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 which may arise out of or result from the Contractor's operations and for which the Contractor may be legally liable. If a Contractor cannot obtain adequate insurance coverage as required herein, a contract shall not be awarded. Maintenance of insurance coverage, without lapse, is required throughout the term of the *Contract Agreement* and as may be required after the completion of the work and final payment. 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 including stoppage of the work or cancellation of the contract for default.

74. Minimum Insurance Requirements: The insurance requirements stated herein are minimum requirements and the Contractor's coverage shall be written for not less than the limits stated herein:

A. Commercial General Liability: $1,000,000 limit for bodily injury and property damage (each occurrence); premises operation and independent contractor's protection of $1,000,000; products and completed operations of $1,000,000 to be maintained for one (1) year following established completion of the project; commercial broad form property damage of $1,000,000 including owned/non-owned and hired motor vehicles with combined minimum single limit of $600,000; personal and advertising injury of $1,000,000; contractual each occurrence of $1,000,000; fire damage (any single fire) of $100,000; medical expense (any single individual) of $5,000.

B. Commercial Umbrella Liability: $1,000,000 (per occurrence) in excess of other coverage.

C. Automobile Liability: $1,000,000 for bodily injury and property damage (per occurrence) including all owned, hired, and non-owned vehicles

1) Worker's Compensation: Employer's liability (per single accident) of $500,000; disease (per single individual) of $100,000; disease (policy limit) of $500,000; or amounts required by the State of South Carolina.

Any out-of-state Contractor shall ensure coverage is provided for those employees in South Carolina working on this project, whether residents of South Carolina or of another state, which conforms to the requirements in this *Contract Agreement*. The District and the Architect shall be named as additional insured.

75. Builder's Risk Insurance: Where necessary, the District shall provide builder's risk coverage on the work in progress and materials and equipment to be incorporated into the work and located at the worksite as well as any other appropriate insurance coverage for the existing facilities at the worksite. Provision by the District of builder's risk or other insurance coverage to protect the work in progress or existing facilities at the worksite does not prejudice any rights of the District to remedies by the Contractor for losses or damages incurred due to criminal intent, negligence, action or failure to act of the Contractor, any subcontractor or any supplier.

76. Insurance Carrier Requirements: Each of the insurances required shall be issued by a company licensed in the State of South Carolina for the applicable line of insurance and shall be an insurer with a "Best Policyholder's Rating" of "A-" or better and with a financial size rating of Class V or greater. Any aggregate limits of insurance shall apply, in total, to this *Contract Agreement* only and shall be so indicated on the *Certificate of Insurance (Exhibit G)*. The District and the Architect/Engineer shall be named as an additional insured with a cross liability clause on the comprehensive general liability and automobile liability policies. An original *Certificate of Insurance (Exhibit G)* shall be provided to the District by the insurance carrier(s) prior to commencement of the work.

77. Losses: The Contractor shall report all losses related to Contractor-provided insurances within twenty-four (24) hours to the Contractor's insurance agent or carrier as may be appropriate to facilitate adjustment of the claim. The Contractor shall also notify the District's project representative within the same period of time the nature and estimated value of the loss or liability exposure incurred. The Contractor shall comply with the following regarding any loss or damage to the work in progress or to the District's buildings or other facilities:

A Secure a police report.

B Prepare or assist in preparation of any claim forms, affidavits, statements of loss, or other documents required to facilitate claim processing and present immediately any proofs of loss or damage incurred to facilitate prompt settlement of the claim.

C Immediately safeguard or temporarily repair the work, facilities and premises from further loss or damage until the adjuster(s) has made necessary observations of the damage. The Contractor shall notify the District of action taken to safeguard the work, facilities, and premises or temporary repairs performed until such time as clean-up, permanent repair, replacement or other such activities are authorized. In the event safeguarding the work in progress or temporary repairs would negate or cover up the damage from observance by the adjuster(s), the Contractor shall take photographs of the damage prior to performing temporary repairs.

D Prepare for approval by the District, detailed costs required to facilitate clean-up, repair, replacement of all damaged or destroyed materials, equipment or processes and, upon approval of the *Change Order (Exhibit E)* take immediate action to perform such activities related to correction of the loss.

E Accept any insurance proceeds as full restitution for all work of the Contractor and all subcontractors, and repair or replacement of all materials, equipment and processes damaged or destroyed by the loss to be re-incorporated into the work in progress or to correct damage or loss to the existing facilities.

F Perform any additional work or changes to the work deemed by the District to be appropriate as a direct or in-direct result of the damage or loss incurred. Such changes or additions to the work along with any approved change in contract price or contract time shall be incorporated into a *Change Order (Exhibit E)*.

G Pay all deductibles required by the Contractor's insurance or the District's builder's risk insurance and provide promptly to any subcontractors or suppliers their just shares of any insurance proceeds received by the Contractor upon performance of the work resulting from the loss.

78. Performance and Payment Bonds: The Contractor shall furnish bonds covering faithful performance of the *Contract Agreement* and payment of obligations arising there under. Nothing in the *Contract Agreement* shall preclude the District from requiring any other bonds in conjunction with the work or any claim or other activity connected thereto. The Contractor shall provide and pay the cost of performance and payment bonds. Each shall be in the full amount of the contract price including any accepted alternates, issued by a Surety licensed in South Carolina, with an "A-" minimum rating of performance as stated in the most current publication of "Best's Key Rating Guide, Property Liability" and a financial strength rating of at least five (5) times the contract price. Each bond shall be accompanied by a power of attorney authorizing the attorney-in-fact to bind the Surety and certified to include the date of the bond. Upon request, the Contractor or the District shall promptly furnish a copy of the payment bond to anyone appearing to be a potential beneficiary without establishing the legitimacy of such claim.

79. Complaints / Claims Process: Any formal complaint or contract controversy arising out of the interpretation of the *Contract Agreement* between the Contractor and the District shall not be subject to arbitration or mediation but shall be subject to the District's Procurement Code and subsequently, after exhausting the processes therein, the judgments of the Court of Common Pleas of Horry County, South Carolina. The Contractor shall have the right to make an informal request for redress by the District's Contract Manager, in writing, regarding interpretation of any condition of the contract documents or a decision regarding other condition(s) existing which may impede progress of the work. Such requests shall be made within ten (10) days of the occurrence, the Contractor's first knowledge of the need for an interpretation or decision, or the event precipitating the need for redress. The Contract Manager shall, within ten (10) days, provide a written interpretation or decision to the Contractor. The Contract Manager's decisions on matters relating to aesthetic effect shall be final if consistent with the intent of the *Contract Agreement*. For all other decisions not resolved by the District's Contract Manager, the Contractor shall have the right to submit a formal claim in accordance with the requirements of the District's Procurement Code. Any costs to the District for litigation in the Court of Common Pleas of Horry County, South Carolina shall be borne by the claimant including all attorney fees, courts costs or other such costs related to the litigation if the judgment of the court is made in favor of the District.

80. Recovery of Sums Owed: Whenever any sum of money is recoverable from or payable by the Contractor to the District (whether for the benefit of the District, the Architect/Engineer, any regulatory authority or another contractor), the same amount may be deducted from any payment due to the Contractor under the *Contract Agreement* or under any other *Contract Agreement* between the Contractor and the District at that time. Should the amount owed by the Contractor be greater than the amounts yet payable to the Contractor under any *Contract Agreement*, the Contractor shall reimburse the District for all remaining amounts. The District shall have the right to declare any business entity operated by the Contractor as non-responsible from receiving another bid award until all amounts due to the District are paid in full. These rights of the District are in addition and without prejudice to any other rights the District may have to claim the amount of any loss or damage suffered by the District as a result of acts or omissions of the Contractor from the Contractor's Surety.

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

82. Written Notices: Written notice is deemed to have been duly served if delivered in person to the officer, director, owner, or other employee of the entity for which it was intended and from whom signature is secured, or if sent by registered or certified mail to the last business address known to the party giving written notice.

83. Taxes: The Contractor shall pay sales, consumer, use and similar taxes, which are legally enacted when bids are received or negotiations concluded, for the work or portions thereof and all materials and equipment provided by the Contractor, 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 bid is submitted or negotiations completed.

84. Non-Resident Withholdings: The Contractor's attention is directed to Title 12, Chapter 9, 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 under the *Contract Agreement* 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.

85. Statutory Limitation Periods: As to acts or failures to act occurring prior to the date of substantial completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the established date of substantial completion. As to acts or failures to act occurring subsequent to the date of substantial completion and prior to issuance of the final payment any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of the Contractor's final *Payment Request (Exhibit F)* submitted. As to acts or failures to act occurring after the relevant date of the final *Payment Request (Exhibit F)* any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to the warranty provided, the date of any correction of the work or failure to correct the work by the Contractor, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or District, whichever occurs last.

86. Royalties and Patents: If the Contractor uses any design, device, or materials covered by patent or copyright, it is mutually agreed and understood, without exception, the contract price includes all royalties or costs arising from the use of such design, device, or materials in the work to be performed. The Contractor shall defend suits or claims for infringement of patents or copyright rights or unpatented invention, process, or article manufactured or used in the performance of the contract and shall hold the District, its representatives, agents, employees or others harmless against all claims, loss, damage, injury, fines, penalties and costs, including court costs and attorney's fees, charges, liability, and exposure, however caused on account thereof, including the use by the District. The Contractor shall not be responsible for such defense or loss when a particular design, process or product of a particular supplier is required by the contract documents without substitution. However, if the Contractor has reason to believe the required design, process or product or use thereof is an infringement of a patent, the Contractor shall notify the Architect/Engineer of such information in writing within twenty-four (24) hours of first discovering the potential infringement.

87. Contract Termination By Contractor: The Contractor may terminate the contract if the work is stopped for a period of ninety (90) days or more, through no act or fault of the Contractor, any subcontractor or supplier, for a) issuance of an order of a court or other public authority having jurisdiction; b) an act of government, such as a declaration of national emergency; or c) if repeated suspensions, delays or interruptions by the District constitute in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred twenty (120) days in any one (1) year period, whichever is less. If one of the above reasons exists, the Contractor may, upon fifteen (15) days written notice to the District, terminate the *Contract Agreement* and recover from the District payment for work executed in accordance with the *Contract Agreement* to date, and for substantiated direct loss in materials, equipment, and processes to be incorporated into the work, including overhead provided for elsewhere in the *Contract Agreement* and damages less any amounts recoverable from the Contractor.

88. District Termination: The District may terminate the contract or pursue any other rights and remedies afforded in the *Contract Agreement* or under applicable laws if the Contractor fails to perform or otherwise materially breaches any requirement of the *Contract Agreement*. The District may, without prejudice to any other rights or remedies of the District and after giving the Contractor and the Contractor's Surety ten (10) days written notice, terminate the contract with the Contractor and may, subject to any prior rights of the Surety, a) take possession of the site and of all materials, equipment, tools, and construction equipment and machinery located thereon owned by the Contractor; b) require and accept assignment of sub-contracts; and/or c) finish the work by whatever reasonable method the District may deem expedient. Further the District may terminate the contract, without cause, should funds become unavailable.

89. Payment at Termination: When termination is predicated upon cause, the Contractor shall not be entitled to further payment until all other obligations related to completion of the work by the Surety or the District are fulfilled and it is determined by the District the Contractor is entitled to such unpaid balance for performance of work in accordance with the *Contract Agreement* prior to termination. If costs to finish the work exceed the unpaid balance, the Contractor or the Surety shall pay the difference to the District. The amount to be paid to or by the Contractor, the District or the Surety, as the case may be, shall survive termination. In all other cases of termination, the Contractor shall be entitled to payment of the portion of the contract price for the percentage of work completed to the time of termination, as determined by the District for work in accordance with the *Contract Agreement*, excluding any anticipatory profits.

90. Cessation of Work: 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) place no further orders or subcontracts for materials, equipment, labor or other services except as necessary for completion of such portion of the work not terminated, c) terminate all supplier orders and assign all existing subcontracts to the District or the Surety in

accordance with the *Contract Agreement* unless otherwise directed by the District, and d) settle all outstanding liabilities and claims.

91. Right to Extend Remedy Period: The District shall have the right to extend any period of time given to the Contractor by the *Contract Agreement* to remedy any correction of work, default or other circumstance, if it is deemed in the best interests of the District to do so. The right of the District to extend such time shall not give rise to a duty on the part of the District to exercise this right.

92. 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 herein. Neither party shall assign the *Contract Agreement,* in whole or in part, without written consent of the other party. If either party attempts assignment without consent, that party shall nevertheless remain legally responsible for all obligations under the *Contract Agreement*.

93. Definitions: Following are definitions of terms used in the contract documents:

A. Allowance: An amount specified by the District for a specified product purchase or work to be performed by the Contractor. An allowance is a reimbursement, dollar for dollar, of actual costs incurred.
B. Applicable Laws: Any local, federal or South Carolina laws, statutes, ordinances, rules, regulations, administrative guidelines, codes, or other lawful orders that may apply to or regulate the work or the performance of the work, whether or not reference is specifically made to such laws, statutes, ordinances, rules, regulations, administrative guidelines, or other lawful orders in the contract documents.
C. Architect/Engineer: Any individual or entity legally qualified to practice architecture or engineering in South Carolina with whom the District has a contractual agreement to provide services pertaining to construction that members of this profession or those in their employ may justifiably perform. The Architect/Engineer serves as the District's authorized representative to the extent of the contractual agreement between the Architect/Engineer and the District. Any reference to Architect/Engineer also includes any representatives, agents or employees of the Architect/Engineer.
D. Claim: A demand or assertion by one of the parties to the *Contract Agreement* or by a third party seeking, as a matter of right, an adjustment or interpretation of contract terms, payment of money, extension of time or other relief with respect to the terms of the contract documents, the work being performed, or actual damages sustained. Any claim shall conform to requirements of the District's Procurement Code.
E. Contractor: The properly licensed individual or entity with whom the District has executed a *Contract Agreement* for the work to be performed. Any reference to Contractor also includes any representatives, agents or employees of the Contractor or any other entity enjoined to the Contractor.
F. Complaint: A verbal or written request to the District's Contract Manager seeking a) redress of any condition existing that may impede progress of the work, b) relief from an untenable situation arising during the performance of the work through no fault of the complainant, c) interpretation of any condition of the contract documents, d) removal of restrictions or requirements not in accordance with the contract documents, or e) additional compensation for changes in the work.
G. Day: Shall mean a calendar day unless otherwise specifically designated as business or work day. In computing any period of time, the day of the event from which the designated period of time begins to run is not included. If the final day of the designated period falls on a Saturday, Sunday or a legal holiday for the District, then the period shall run to the end of the next calendar day.
H. Drawings: Graphic and pictorial portions of the contract documents showing the design, location and dimensions of the work to be performed. Such drawings constitute an integral portion of the contract documents.
I. Emergency: A sudden, unexpected occurrence or set of circumstances demanding immediate action to ensure the health and safety of building occupants or to prevent further damage which may include, but not be limited to, fire, security risk, impending structural collapse, fire alarm or security alarm malfunction, loss of utilities. Action taken by the Contractor shall be limited to such action necessary to ensure the safety of the building's occupants and to mitigate, contain and/or prevent further damage to the work in process, the District's property or the property of others or bodily injury.
J. Latent Defect: A defect in materials, equipment or processes not reasonably detected through careful observation or inspection.
K. May: The word "may" or other such words or phrases indicate a recommendation that is adhered to by the Contractor, Architect/Engineer or District at his/her choice.
L. Minority Status: Means the qualification of a small business concern that is at least fifty-one percent (51%) unconditionally owned by one or more individuals who are both socially and economically disadvantaged or are women or a publicly owned business having at least fifty-one percent (51%) of its stock unconditionally owned by one or more socially and economically disadvantaged individuals or by women, which may or may not be State of South Carolina certification.
M. Project: The total scope of work to be performed whether performed by one or more contractors, subcontractors or the District itself. (Also referred to as the "work," the "work to be performed," the "work in process," or other such terms.)
N. Regulatory Authority: Any agency of the federal government or the State of South Carolina which has jurisdiction over the District, its procurement of design and construction services, or the work being performed under contract.
O. Shall: The word "shall" or "must" or other such words or phrases indicate a mandate that must be adhered to by the Contractor, Architect/Engineer or District.
P. Subcontractor: An individual or entity, who is properly licensed to do business in the State of South Carolina, having a direct contract with the Contractor to perform a portion of the work described in the contract documents. Any reference to subcontractor also includes any representatives, agents, or employees of the subcontractor or any other entity enjoined to the subcontractor to perform any work.
Q. Supplier: Any individual, business, manufacturer, fabricator, vendor or other entity that supplies materials, equipment, or items fabricated to a special design needed for the work to be performed but who does not perform any direct labor. Any reference to supplier also includes any representatives, agents or employees of the supplier or any other entity enjoined to the supplier.

94. 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.

95. Ownership of Data & Materials: All data, material and documentation 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:<br><br>Date:<br><br>Signature: | Name & Title of Authorized Signatory:<br>Robin Strickland, Procurement Officer; John K. Gardner, Chief Financial Officer, Fiscal Services<br>Date:<br><br>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

# SCOPE OF WORK (Exhibit A)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

The following information and terms and conditions are provided specific to the project identified in this contract:

| | |
|---|---|
| DISTRICT PROJECT MANAGER: | Name: Ara Heinz<br>Telephone: 843-488-6711 Fax: 843-488-6937 E-mail: aheinz@horrycountyschools.net Mobile: (843) 465-1588 |
| OTHER PROJECT REPRESENTATIVE(S): | Name: Ross Brazier<br>Telephone: 843-488-6979 Fax: E-mail: mbrazier@horrycountyschools.net Mobile: 843-254-9737 |
| CONTRACTOR'S PRINCIPAL/OWNER: | Name:<br>Telephone: Fax: E-mail: Mobile: |
| CONTRACTOR'S PROJECT MANAGER:<br>(if required) | Name:<br>Telephone: Fax: E-mail: Mobile: |
| CONTRACTOR'S WORKSITE SUPERINTENDENT: | Name:<br>Telephone: Fax: E-mail: Mobile: |
| CONTRACTOR'S SECONDARY WORKSITE SUPERINTENDENT: (if required) | Name:<br>Telephone: Fax: E-mail: Mobile: |
| APPROVAL OF CONTRACTOR USE OF DISTRICT FACILITIES (as checked): | ☒ Water ☒ Electrical Power ☐ Restroom Facilities ☐ Vending Machines ☐ Debris and Recycle Containers<br>☐ Other: ☐ No use of District facilities allowed. |
| LIQUIDATED DAMAGES: | $ 500.00 per day |
| RETAINAGE TO BE WITHHELD: | ☐ 3.5% from every payment until final completion of the work in accordance with the contract documents<br>☐ None |
| CONSTRUCTION WORKSITE MEETINGS HELD: | ☒ Weekly ☐ Every Two Weeks ☐ Twice Monthly ☐ Once Monthly |
| SOURCE OF PROJECT FUNDS: | ☐ Federal Source ☒ Other Sources (non-Federal) |
| CONTRACTOR WARRANTY TERMS: | ☐ 60 days ☐ 90 days ☐ 180 days ☒ 365 days (1 year) ☐ 730 days (2 years) |

The Contractor shall provide, at the time the *Contract Agreement* is executed by the Contractor and returned to the District, the following checked items:

- ☒ A copy of business licenses valid in the jurisdiction where the construction work will be performed for the Contractor.
- ☒ A copy of contractor licenses issued by the South Carolina Licensing and Regulation Board for the Contractor and each subcontractor.
- ☒ A valid, original Certificate of Insurance.
- ☒ SLED checks maintained in the Contractor's file on all Contractor and subcontractor employees, agents and representatives who will access the worksite during performance of the construction work or other services. (Do not submit to the District until requested.)
- ☐ Certification of Approved Installer (on manufacturer's, fabricator's or supplier's letterhead) for
- ☐ Other:
- ☐ Other:

PERMITS, INSPECTIONS, APPROVALS OF REGULATORY AUTHORITY AND ASSIGNED RESPONSIBILITY:
No building permit will be issued. The Office of School Facilities (OSF) is the authority having jurisdiction. Chapter 1 and Chapter 17 inspections will be performed by an independent testing agency retained by the District. Testing and Balancing services will be performed by an independent agency retained by the District.

DETAILED DESCRIPTION OF WORK TO BE PERFORMED: See Attached Plans & Specifications
The Contractor shall furnish all labor, materials, tools, equipment and incidentals necessary to satisfactorily perform and complete the Bard Unit Replacement at Lakewood Elementary School located at 1675 Hwy. 396, Myrtle Beach, SC 29575 in strict accordance with the Contract Documents listed in Exhibit B of this Contract.

Perform demolition work as required to remove and replace wall-hung heat pumps with wall-hung heat pumps with energy recovery ventilators and hot gas reheat humidity control as shown on the mechanical drawings. Units are to be manufactured by Bard. The existing supply and return grilles are to remain.

Allowances: The Contractor shall include a contingency allowance of $20,000.00 for use upon the Owner's instructions in the bid.

District shall supply containers for recyclable equipment and materials on site, all other trash and debris will be removed from the site at contractor's expense. The District shall recover as much refrigerant from the units as possible before they are removed from the site. For any remaining refrigerant, Contractor shall properly remove and recycle refrigerant(s) per current applicable rules and regulations.

The District will have staff in the schools during the summer months and will need to maintain some of the HVAC operation for the summer custodial staff and administration. It is HCS intent NOT to have all A/C off in the school as the work progresses, but to work in one hall or section of the school at a time, completing the replacement work and then moving to another hall one the new equipment is operational. It is possible that summer school will be scheduled at the school.

The District shall contract directly with Control Management, Inc. for all controls and building management systems requirements, with an independent firm for Chapter 1 and 17 inspections (if required), and with an independent Testing and Balancing firm for TAB services. Contractor shall coordinate his work with all firms for a complete project.

CONSTRUCTION SCHEDULE:
If the solicitation timeframe and the manufacturer's lead time allow, it is the intent of the District to begin this work starting over Winter Break (December 23, 2020 – January 2, 2021). Other timeframes available for removal and installation are Spring Break (April 2, 2021 – April 10, 2021) and June 18 – 30, 2021 This schedule shall be coordinated with assigned District Project Manager.

The contractor will be responsible and required to meet the following:

1. Proper Identification as a worker/visitor to the school campus must be readily visible by staff and students, in the form of a company supplied ID Badge.

    a. Proper Identification comes in *two forms* and is required by all persons performing work for the general contractor and all sub-contractors: Government-issued; or Photo ID badge with company name; and PPE (Personal Protective Equipment).
    b. ID Badges are required for ALL personnel on-site and must be worn/visible at all times. Any person that does not have the proper ID Badge and is not visible will be asked to leave the property immediately. ID Badges must be laminated or of credit card type material that resists wear and fading. Faded badges are invalid.
    c. PPE (Personal Protective Equipment) is a minimum of international orange/yellow shirt and hard hat. Other forms of personnel visibility and head protection are accepted. Additional PPE measures must be supplied by the contractor for their appropriate trade, such as eye/ear protection, gloves, footwear, etc.

2. The contractor is responsible for rest room facilities for all its employees and any subcontractors to utilize during this project. The facilities inside the school are off-limits during school hours and after school hours.

3. Contractor accepts responsibility for all receiving, unloading, handling, full care and custody of all materials. Site security personnel will not be provided by the District. Access to the school campus for the duration of the Work will be 7:00 am to 7:00 pm; 7-days per week.

4. All areas inside the school are to be off-limits to the construction forces unless coordinated with the District Project Manager. All exterior ingress/egress doors and walkways are to be maintained and door openings are to be sealed to minimize dust infiltration from affecting school equipment, etc.

5. The contractor is responsible for all safety barricades and signage as needed to complete the work during school days when school is in session. Students must be separated from construction activity at all times. Contractor shall provide all protection necessary to ensure the Work shall be completed without damage or deterioration to existing District property. The Contractor must include in the bid the cost to furnish and install protection fencing and etc. to ensure that the district's property is not damaged and student are kept safely at a workable distance. Temporary fencing will be galvanized. Orange construction fence is not allowed.

6. There shall be no construction activity or deliveries in drop-off and pick-up areas during the beginning and ending of the school day.

7. Work areas must be barricaded with galvanized fence to prevent unauthorized access after-hours.

8. The contractor will be responsible for the placement of sod in all disturbed areas. The grass is to be watered and maintained until the root system is established. Mesh backing on sod is NOT allowed.

9. A pre-installation meeting will be required prior to the start of the work.

10. The Contractor must adjust construction activities to provide safe access to the schools for essential District activities during the school year and summer breaks as required.

11. The contractor will minimize construction noise at all times to the maximum extent possible. During the time when standardized testing is occurring, limited to zero construction activity will be allowed adjacent to the existing building. Work that does not disturb testing is permitted. The contractor will need to coordinate with the HCS Project Manager and the School administration to determine when and where the testing will be conducted throughout the contract period.

12. The contractor is responsible for identifying the location of all utilities. Any utilities that are interrupted or damaged by the contractor or any subcontractor must be repaired before the contractor leaves the job site that day. Any interruption in service will need to be coordinated and approved in advance with HCS Project Manager.

13. The Contractor will secure all materials and equipment during construction to insure safe means of egress to and from the school building at all times.

14. The Contractor is required to; have a job superintendent present on the property while any and all work is being performed, provide adequate staffed at all times to maintain the construction schedule, have the Job Superintendent attend the bi-weekly progress meeting onsite. The time, day and location will be agreed upon prior to start of construction. These meetings will be scheduled to address questions, issues, schedules, and update the progress of the project, have each Subcontractor's Superintendents in attendance, when their portion of the project is scheduled to begin within 2 weeks and throughout the time that they are working onsite, have each Material Suppliers Representative in attendance, when their portion of the project is scheduled to begin within 2 weeks and throughout the time that they are working onsite.

15. The Contractor shall provide the following documents to Owens and Associates, Inc. and the HCS Project Manager prior to the HCS issuing the final completion:
    a. Punch list with anticipated completion dates
    b. As-Built plans in CAD and PDF formats
    c. Warranties
    d. O & M Manuals
    e. Shop Drawings
    f. HCS Closeout Documents

16. The Contractor shall issue a one-year warranty along with all manufacturers' warranties starting on the date of substantial completion of all the work completed in each phase of the project.

17. A full set of certified As-builts will be required at the end of the job and presented to District in digital and printed format.

The Contractor and District agree to the Scope of Work and other terms identified herein as an integral part of the *Contract Agreement*.

End of Exhibit A

# CONTRACT DOCUMENT LIST (Exhibit B)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

The following documents listed below constitute an integral portion of the contract documents for the work to be performed.

DRAWINGS LISTING DRAWINGS PREPARED BY: Owens and Associates, Inc.

| SHEET NO. | TITLE | DATE | IDENTIFICATION |
|---|---|---|---|
| | | | |
| Cover | Lakewood Elementary School Mechanical Renovations | 9/30/2020 | |
| M1 | Mechanical Floor Plan Area "A" | 9/30/2020 | |
| M2 | Mechanical Floor Plan Area "B" | 9/30/2020 | |
| M3 | Mechanical Floor Plan Area "C" | 9/30/2020 | |
| M4 | Mechanical and Electrical Schedules and Details | 9/30/2020 | |

SPECIFICATIONS LISTING SPECIFICATIONS PREPARED BY: Owens and Associates, Inc.

| SECTION NO. | TITLE | DATE | IDENTIFICATION | PAGES |
|---|---|---|---|---|
| | | | | |
| | Table of Contents | | | 1 |
| 230100 | General Mechanical | | | 3 |
| 230200 | General Completion | | | 5 |
| 230300 | Basic Materials and Methods | | | 2 |
| 230548 | Vibration and Seismic Control | | | 3 |
| 230713 | Insulation | | | 1 |
| 230923 | Controls | | | 3 |
| 233133 | Ductwork | | | 4 |
| 237500 | Wall Hung Heat Pumps with Energy Recovery | | | 2 |
| 239040 | Energy Management System (DDC Heat Pump) | | | 8 |
| 239950 | Testing and Balancing Air Systems | | | 4 |
| 260501 | General Electrical | | | 2 |
| 260502 | General Completion, Electrical | | | 4 |
| 260503 | Basic Materials and Methods, Electrical | | | 9 |
| 260519 | Wires and Cables | | | 5 |
| 260533 | Conduit | | | 5 |

ADDENDA LISTING ADDENDA PREPARED BY: n/a

| ADDENDUM NO. | TITLE | DATE | IDENTIFICATION | PAGES |
|---|---|---|---|---|
| | | | | |

End of Exhibit B

# SCHEDULE OF VALUES (Exhibit C)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

The *Schedule of Values* for the Contract Agreement allocating the entire contract sum to various portions of the work is indicated below. The Contractor shall use the schedule of values sheet (page two of the payment request form) to prepare the initial *Schedule of Values* for District approval. Once approved by the District, this schedule shall be used as a basis for reviewing Contractor pay requests and the work in progress. Each subcontract shall be listed on one or more lines of the schedule for the phases of work to be performed or materials required. The "general conditions" portion (fee, overhead, supervision, management, etc) of the schedule shall be listed separately and not distributed within other scheduled values. Allowances shall be listed as separate line items. Bonding premium shall be listed as a separate line item. Each approved Change Order shall be listed separately and itemized by the District. The Schedule of Values shall be in sufficient detail to be acceptable to the District.

End of Exhibit C

# PROJECT SCHEDULE (Exhibit D)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

The following project schedule is incorporated into the *Contract Agreement*:

ESTIMATED PROJECT COMMENCEMENT DATE: December 23, 2020

The Contractor shall not prematurely commence activities prior to the a) commencement date established above, b) receipt by the District of a valid, original *Certificate Of Insurance* (Exhibit G) issued by the Contractor's insurance provider/agent, or c) securing SLED background checks on all Contractor and subcontractor worksite personnel, whichever is later. The established date for completion of the work shall not change should these conditions not be completed by the project commencement date.

CONSECUTIVE NUMBER OF CALENDAR DAYS FOR SUBSTANTIAL COMPLETION OF THE WORK: 22 Days

PROJECT SUBSTANTIAL COMPLETION DATE: June 30, 2021

The consecutive number of calendar days for completion of the work and the project completion date established cannot be changed except by an executed *Change Order*.

FINAL COMPLETION PERIOD: ☐ 10 days ☐ 15 days ☒ 20 days ☐ 30 days

The consecutive number of calendar days immediately following the date established for substantial completion, in which the Contractor shall complete any punch list items and submit all final documents required by the District and a final *Payment Request*.

DESCRIPTION OF MILESTONES AND DELIVERABLES WITH DELIVERY DATE:

| MILESTONES / DELIVERABLES | DELIVERY DATE |
|---|---|
| Anticipated *Notice of Intent to Award* Issued | November 6, 2020 |
| Protest Period Ends | November 23, 2020 |
| Winter Break (Potential timeframe to start the work) | December 23, 2020 – January 2, 2021 |
| Spring Break (Potential timeframe to start, continue, or complete the work) | April 2 – 10, 2021 |
| Summer Break (Potential timeframe to start or continue and/or complete the work) | June 18 – 30, 2021 |

The Contractor and District agree to the project schedule identified herein as an integral part of the *Contract Agreement*.

End of Exhibit D

# CHANGE ORDER PROCEDURES (Exhibit E)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

Following are the requirements for *Change Order* procedures:

Changes Required in the Work: All difficulties inherent in construction work cannot be foreseen during design and solicitation of a project; therefore, the District reserves the right to make changes in the work without invalidating the *Contract Agreement*. The *Contract Agreement* shall not be substantially amended or varied nor shall a change in contract price or contract time be effected without execution of a *Change Order*. In the absence of total agreement between the Contractor and the District on the terms of any *Change Order*, the District has the right to issue a *Construction Change Directive (CCD)* as a directive which shall have the same force and effect as a *Change Order* on the Contractor's performance and in effecting the change to the *Contract Agreement.* Any changes authorized shall be performed under applicable provisions of the *Contract Agreement,* and the Contractor shall proceed promptly to execute the work as described. If the Contractor defaults or neglects to execute a change in the work, the District shall have all remedies stated in the contract documents and afforded by the District's Procurement Code and the law, including notification to the Surety.

*Change Order* Cost Adjustments: When the District determines a change to the work is necessary, a request for pricing will be submitted to the Contractor. The Contractor shall reply promptly with an itemized cost to complete such work using the *Contract Change Pricing* form herein. The District shall have the right to make any changes to the pricing deemed appropriate and in accordance with prevailing industry rates and other requirements of the contract documents. Any adjustment to the contract price shall approximate the actual, un-inflated costs to the Contractor or subcontractor with all costs justifiable with prevailing standards including reasonable overhead and profit and shall be based on:

A. A total sum properly itemized and supported by sufficient substantiating data to permit evaluation, adjustment, and approval by the District.
B. Unit or incremental pricing stated in the original quote as negotiated and agreed upon between the District and the Contractor.
C. Any allowances for Contractor's purchase of materials, equipment or processes or for other specified work as established in the contract documents or otherwise required by the District through a properly executed *Change Order* for which the Contractor shall supply invoices of actual costs for reimbursement by the District.

If the Contractor does not respond promptly with an itemized estimate of the change in contract price or contract time when notified by the District of the change in work, the method and amount of the adjustment shall be determined by the District on the basis of reasonable costs or savings attributable to the change in work. If the Contractor does not agree with the change in contract price or contract time stated in the issued directive and cannot resolve the disagreement through the informal complaints process with the District's Construction Manager, the Contractor may pursue the steps for a contract controversy as outlined in the District's Procurement Code. Disagreement with any change in contract price or the initiation by the Contractor of the complaint or contract controversy claims process shall not give rise to a right on the part of the Contractor or any subcontractor to delay or postpone the work described in the *Change Order (or directive)*.

Change Order Allowable Pricing: For any change in contract price, the Contractor shall provide, itemize, and justify with appropriate supporting data, direct costs attributable to the change. Direct costs attributable to the change in work shall be limited to the following:

A. Costs of materials, equipment and processes to be incorporated into the work including costs of shipping, handling, fabricating, sales tax (8% required in Horry County and 9% within certain incorporated parts of the City of Myrtle Beach as of August 1, 2009), or other such costs inherent in the provision and delivery of such materials, equipment and processes by the supplier or manufacturer.
B. Costs of direct labor based on actual hourly labor rates multiplied by the actual work hours required to accomplish the change in work when such change in work results in additional contract time or labor. No Contractor or subcontractor shall ask for direct labor costs, when work required can be accomplished with the existing work force, in conjunction with other concurrent work, and during the current approved contract time. The hourly labor rate for any additional contract time or laborers shall be actual hourly rates not to exceed thirty dollars ($30) per hour unless documented proof of payment of a higher hourly rate for a specific skilled laborer is approved by the District prior to *Change Order* execution.
C. Costs of fringe benefits for additional direct labor, including social security, unemployment or other taxes, health and workers' compensation insurances, or other benefits required by agreement, custom or applicable laws. Such fringe benefit rate shall not exceed twenty-eight percent (28%) and the District has the right to request itemized documentation proving the fringe benefit rate used.
D. Costs of machinery or equipment rented or leased in the short term specifically for completion of the additional work to be performed. Such equipment rented/leased shall not customarily be owned by the Contractor or any subcontractor affected by the change but shall be necessary to the accomplishment of the work required. Copies of invoices for such rental shall be provided to document the cost of rental or lease of machinery or equipment. The District shall not pay for use of Contractor- or subcontractor-owned equipment or machinery, which costs are included in the overhead computation.
E. Costs of permits or inspection fees directly attributable to the change in work and not included as part of the Contractor's requirements nor attributable to the Contractor's non-performance or non-conformance to the *Contract Agreement*.
F. Other such direct costs directly attributable to the work and approved by the District.
G. Any additional cost resulting from an amendment to performance and payment bonds but in no event more than one percent (1%) after application of overhead and profit provided for elsewhere. The Contractor shall be responsible for notifying the Surety of any changes in the contract price, if required by the Surety.

Costs itemized shall not exceed the unit costs as listed in the most current issue of Means Construction Cost Data or actual costs justified to the satisfaction of the District.

Unallowable Costs: Any costs which may be perceived by the Contractor to be indirectly attributable to a change in work shall not be included in direct costs but shall be considered part of the overhead and profit rate applied to direct costs. Such costs not to be included in direct costs shall be, by way of illustration and not limitation:

A. Labor hours and fringe benefit costs of the worksite superintendent(s) when such costs were included, or should have been included, in the original bid submitted or result from the Contractor's inability to meet the approved schedule or required completion date. The Contractor must prove, to the satisfaction of the District, such additional costs are directly attributable to any extension of time beyond the last approved completion date. An increase in contract price for additional site supervision shall be at the District's sole discretion.
B. Perceived additional costs attributable to the Project Manager or supervision and coordination of subcontractors, suppliers or Contractor employees.
C. Costs related to use, rental, purchase or replacement of equipment generally or customarily necessary to accomplish the work but not to be incorporated into the work such as, by way of illustration and not limitation, hand tools, generators, cleaning equipment, scaffolding, signage, fencing, vehicles, fuel, and so forth.
D. Transportation or travel costs related to the transporting of hired or contracted supervisors, workers or subcontractors to and from the worksite or between worksites or to pick-up and deliver materials, equipment and processes to the worksite by the Contractor's or subcontractor's own forces including parking, tolls, fines, meals, per diem, hotel, living expenses, or other such costs.
E. Costs attributable to expediting delivery of materials, equipment or processes including telephone calls, facsimile transmissions, copying, employee labor and benefits, and so forth.
F. Costs attributable to maintaining a local office, home office or corporate office as well as office staffing, equipment and consumables, and so forth.
G. Costs for maintaining on-site facilities, including work trailers, telephones, computers, licenses, temporary utilities, and so forth.
H. Contracted services such as accountants, payroll service providers, attorneys, catering and so forth.
I. Catering or vending services, portable toilets, dumpsters, and so forth.
J. Other such indirect costs of doing business or costs normally considered inclusive in overhead.

Allowable Overhead and Profit Charges: Additional overhead and profit attributable to the change in contract pricing shall not exceed the following:

A. For work performed by the Contractor's own forces, a maximum of ten percent (10%) of the allowable direct costs or the unit pricing negotiated at the time of award.
B. For work performed by a subcontractor's own forces, a maximum of ten percent (10%) of the allowable direct costs.
C. For work performed by a subcontractor, overhead and profit of a maximum of five percent (5%) is allowable by the Contractor for administration of the sub-contract.

End of Exhibit E (Except for Forms Provided)

# CONTRACT CHANGE PRICING

NAME OF CONTRACTOR OR SUBCONTRACTOR: _____

NAME OF PROJECT: Bard Unit Replacement at Lakewood Elementary School (LWE) CHANGE NUMBER: _____

BRIEF DESCRIPTION OF WORK: _____

| Materials – Name of Items | Quantity | Unit Price | Extended Price |
|---|---|---|---|
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| | | SUB-TOTAL MATERIALS: | |
| | | Shipping/Delivery: | |
| | | Miscellaneous Materials (Not to exceed $100): | |
| | | South Carolina Sales Tax (7%): | |
| | | Credit on Returned Items (Including Sales Tax): | |
| | | (A.) TOTAL ALL MATERIALS: | |

| Equipment Leased / Rented | No. Hours | Cost Per Hour | Extended Price |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | SUB-TOTAL EQUIPMENT: | |
| | | South Carolina Sales Tax (7%): | |
| | | Credit on Returned Items (Including Sales Tax): | |
| | | (B.) TOTAL ALL EQUIPMENT: | |

| Other Costs (Specify) | Cost |
|---|---|
| | |
| | |
| | |
| (C.) TOTAL ALL OTHER COSTS: | |



Contractor Initials: _____ District Initials: _____

| Classification of Laborer | No. Hours | Rate of Pay | Extended Cost |
|---|---|---|---|
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| | | SUBTOTAL LABOR COSTS: | |
| | | Labor Burden (FICA, insurances, Workers Comp., etc.) (Maximum 28%): | |
| | | (D.) TOTAL ALL LABOR COSTS: | |

(A. + B. + C. + D. = E.) TOTAL ALL DIRECT COSTS (Sub-contractor or Contractor):

| (FOR SUBCONTRACTORS ONLY) | |
|---|---|
| ( F.) SUBCONTRACTOR OVERHEAD & PROFIT ON TOTAL DIRECT COSTS (Maximum 10%): | |
| (E. + F. = G.) TOTAL SUBCONTRACTOR DIRECT COSTS, OVERHEAD & PROFIT: | |
| (H.) APPLICATION OF SUBCONTRACTOR BOND PREMIUM (If bond required by Contractor.) (Maximum 1%): | |
| ( G. + H. = I.) GRAND TOTAL SUBCONTRACTOR COSTS: | |

| (FOR GENERAL CONTRACTOR ONLY) | |
|---|---|
| List all Subcontractors performing a portion of the change for which itemized costs are provided: | Cost (Total I. for Each) |
| 1. | |
| 2. | |
| 3. | |
| (J.) TOTAL PROJECT COSTS FOR ALL SUBCONTRACTORS: | |
| (K.) OVERHEAD & PROFIT ON SUBCONTRACTED WORK (Maximum 5% of J.): | |
| (L.) OVERHEAD & PROFIT ON DIRECT COSTS OF CONTRACTOR PERFORMED WORK (Maximum 10% of E.): | |
| (E. for Contractor work only +J. + K. + L. = M.) TOTAL CONTRACTOR DIRECT COSTS, OVERHEAD & PROFIT: | |
| (N.) APPLICATION OF CONTRACTOR BOND PREMIUM (Maximum 1% of M.): | |
| (M.+N.) GRAND TOTAL ALL PROJECT COSTS: | |



Contractor Initials: _____ District Initials: _____

# CHANGE ORDER

| | | |
|---|---|---|
| PROJECT NUMBER (if any): 2021-12RF | EFFECTIVE DATE: | |
| PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) | | |
| CONTRACTOR NAME: | CHANGE ORDER NO: | |

DETAILED DESCRIPTION OF CHANGE TO THE PROJECT OR TO THE TERMS, CONDITIONS, SPECIFICATIONS OR DRAWINGS:

CHANGE IN CONTRACT PRICE:

| | |
|---|---|
| Total original contract price: | $ |
| Cumulative change in contract price, excluding this change order: [increase / (decrease)] | $ |
| Revised total contract price, prior to this change order: | $ |
| Total change in contract price for this change order: [increase / (decrease)] | $ |
| Total revised contract price including this change order: | $ |
| Total current number of days for substantial completion: | |
| Total change in number of days for substantial completion for this change order: [increase / (decrease)] | |
| Total revised number of days for substantial completion including this change order: | |

The above changes as defined and agreed to by the Contractor and the District shall become, upon execution, an integral part of the *Contract Agreement* for the project identified herein and the Contractor shall proceed promptly with the change in work/services identified herein. In the absence of total agreement, this Change Order shall constitute a directive, upon signature and transmission to the Contractor, and the Contractor shall proceed promptly with the change in work/services.



Contractor Initials: _____ District Initials: _____

# PAYMENT PROCEDURES (Exhibit F)

| PROJECT NUMBER: 2021-12RF | PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |
|---|---|

Payment Requests:

An itemized payment request shall be submitted to the District by the 25th day of each month that payment is being requested and at completion of the project, using the form provided by the District. The payment request shall not include a) any work anticipated to be completed but not completed by the end of each month being requested; b) any materials not incorporated into the work to be performed except those properly stored as stated in the *Contract Agreement*; c) any damaged, used, inferior or substituted materials not meeting the requirements and standards of the contract; nor d) any amounts the Contractor does not intend to pay to any subcontractor or supplier, where performance or material quality is in question or any other dispute is pending.

If, upon review of the payment request and based upon the best determination of the District, the amount requested does not accurately represent, in the District's opinion, the progress of the completed work to be performed in the Scope of Work (Exhibit A), the District shall have the right to adjust the payment request to more accurately reflect the percentage of completed work/services. The District shall approve and authorize payment to the Contractor no more often than once monthly. For projects less than forty-five (45) days in duration, payment shall be made once upon completion of the work and clean-up of the worksite.

Payment by the District of undisputed amounts shall be made by the 15th day of the following month if request is received by Contractor by the 25th of the month. If payment request is not received by the 25th, the payment will be made within thirty (30) days from the date the District receives the payment request.

Payment Withholding:

The District may decide not to approve or process the Contractor's payment request or, because of subsequently discovered evidence or observations, may nullify the payment request, in whole or in part, to such extent as may be necessary to protect the District from loss. The District shall notify the Contractor the reason for non-payment. The payment request in dispute or amount withheld shall remain unpaid, without interest accrual, until such time as the Contractor and the District resolve the dispute or the conditions resulting in non-payment.

Payment at Project Completion:

When the Contractor considers all work in the Scope of Work (Exhibit A) completed, the Contractor shall submit a final payment request along with all final documents required by the District. The District shall inspect the work and, if the District agrees that all work is complete and appears to be in conformance with the contract documents, the District shall process the final payment, less any amounts the Contractor may owe to the District, the Engineer or regulatory authority.

Payment at Termination:

When termination is predicated upon cause, the Contractor shall not be entitled to further payment until all other obligations related to completion of the work by the District are fulfilled and it is determined by the District a balance of the contract price is remaining and the Contractor is entitled to such payment for performance of work in accordance with the contract documents prior to termination. If costs to finish the work exceed the unpaid balance, the Contractor shall pay the difference to the District. The amount to be paid the District, shall survive termination of the *Contract Agreement* as addressed below.

Recovery of Sums Owed:

Whenever any sum of money is recoverable from or payable by the Contractor to the District, the Engineer or any regulatory authority, the amount may be deducted from any payment to the Contractor under this contract or any other contract between the Contractor and the District at the time. Should the amount owed/recoverable be greater than the amounts yet payable to the Contractor, the Contractor shall reimburse the District for all remaining amounts. The District shall have the right to declare any business entity operated by the Contractor as non-responsible from any future contract awards until all amounts due to the District are paid in full.

The Contractor and District agree to the payment request procedures identified herein as an integral part of the *Contract Agreement*.

End of Exhibit F (Except for Form Provided)

**APPLICATION FOR PAYMENT**

**TO:** HORRY COUNTY SCHOOLS
1160 E HWY 501
CONWAY, SC 29526

**PROJECT:** Bard Unit Replacement at Lakewood Elementary School

**APPLICATION DATE:** _____

**PERIOD TO:** _____

**FROM:** _____

**PROJECT NO:** 2021-12RF

**APPLICATION FOR PAYMENT-SUMMARY**

Application is made for payment, as shown below, in connection with the contract.

1. ORIGINAL CONTRACT AMOUNT: ..... [ ]
2. NET CHANGES TO CONTRACT: ..... [ ]
3. TOTAL CONTRACT AMOUNT (Line 1 +2): ..... ..... $ -
4. TOTAL COMPLETED AND STORED TO DATE: .....
   (Column G on Schedule) [ ]
5. RETAINAGE:
   a. % of Completed Work [ ]
   (Columns D + E on Schedule)
   b. % of Stored Material [ ]
   (Column F on Schedule)
   Total Retainage: (Line I on Schedule) $ -
6. TOTAL COMPLETED AND LESS RETAINAGE: ..... $ -
   (Line 4 less Line 5 total)
7. LESS PREVIOUS APPLICATIONS: ..... [ ]
8. CURRENT PAYMENT DUE: ..... $ -
9. BALANCE TO FINISH INCLUDING RETAINAGE: .....
   (Line 3 less Line 6) $ -

| EXTRA WORK SUMMARY | ADDITIONS | DEDUCTIONS |
|---|---|---|
| Changes From Previous Applications: | | |
| Changes From This Application: | | |
| Total: | 0 | 0 |
| Net Changes: | | |

I, the undersigned, certify that to the best of my knowledge, informationand belief ALL WORK covered by this request for payment has been completed in accordance with any applicable contract documents or District standards and that the payment requested herein is now due and payable. I further certify that I am authorized by the Company stated below to make sure certifications and request the payment herein on behalf of said Company in lieu of the authorized person so indicated.

**ARCHITECT/GC:**

By: _____ Date: _____

State of: _____ County of: _____

Subscribed and sworn to me this _____ day of _____

The above personally appeared before me, the undersigned notary public and provided satisfactory evidence of identification.

Notary Public: _____ My Commission expires: _____

ACCEPTED/APPROVED BY: HORRY COUNTY SCHOOLS

ACCEPTED BY: _____ DATE: _____

APPROVED BY: _____ DATE: _____

This approved application is not negotiable. The amount approved for payment is payable only to the Architect/GC named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the District or the Architect/GC under any applicable contract agreement.



Contractor Initials _____ District Initials _____

# CONTINUATION SHEET

SCHEDULE OF VALUES

INVOICE NO: 1

PERIOD NO:

(Thru end of the month)

Bard Unit Replacement at Lakewood Elementary School (LWE)

PROJECT NO: 2021-12RF

| A | B | C | D | E | F | G | | H | I |
|---|---|---|---|---|---|---|---|---|---|
| | | | WORK COMPLETED | | | | | | |
| ITEM NO: | DESCRIPTION OF WORK | SCHEDULED VALUE | FROM PREVIOUS APPLICATIONS (D+E) | THIS PERIOD | MATERIALS PRESENTLY STORED (NOT IN D OR E) | TOTAL COMPLETED AND STORED TO DATE (D+E+F) | % (G/C) | BALANCE TO FINISH (C-G) | RETAINAGE (IF VARIABLE RATE) |
| 1 | | | | | | $ - | | $ - | |
| 2 | | | | | | $ - | | | |
| 3 | | | | | | $ - | | $ - | |
| 4 | | | | | | $ - | | $ - | |
| 5 | | | | | | $ - | | $ - | |
| 6 | | | | | | $ - | | $ - | |
| 7 | | | | | | $ - | | $ - | |
| 8 | | | | | | $ - | | $ - | |
| 9 | | | | | | $ - | | $ - | |
| 10 | | | | | | $ - | | $ - | |
| 11 | | | | | | $ - | | $ - | |
| 12 | | | | | | $ - | | $ - | |
| 13 | | | | | | $ - | | $ - | |
| 14 | | | | | | $ - | | $ - | |
| 15 | | | | | | $ - | | $ - | |
| 16 | | | | | | $ - | | $ - | |
| 17 | | | | | | $ - | | $ - | |
| 18 | | | | | | | | $ - | |
| TOTALS | | $ - | $ - | $ - | $ - | $ - | | $ - | $ - |

A-Line Item number

B-Brief Item Description

C-Total Value of Item

D-Total of D and E fromPrevious Application(s) (if any)

E-Total Work Completed for this Application

F-Materials Purchased and Stored for Project

G-Total of All Work Completed and Materials Stored for Project

H-Remaining Balance of Amount to Finish

I-Amount Withheld form G



Contractor Initials _____ District Initials _____

# CERTIFICATE OF INSURANCE (Exhibit G)

| | |
|---|---|
| PRODUCING AGENT: (Name and Business Address)<br><br>Contact Person: Phone:<br>Best Policy Holder Rating: ☐ A+ ☐ A ☐ A- ☐ B+ ☐ B<br>Financial Strength Rating: ☐ Class III ☐ Class IV ☐ Class V | CONTRACTOR (INSURED): (Name and Business Address)<br><br>Contact Person: Phone: |
| ADDITIONAL INSURED (CERTIFICATE HOLDER):<br>Horry County Schools<br>335 Four Mile Road, P.O. Box 260005<br>Conway, SC 29528-6005<br>Contact Person: Ara Heinz Phone: (843) 488-6711 | PROJECT / BID NUMBER: 2021-12RF<br><br>PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE) |

| Type of Insurance | Policy No. | Policy Inception & Expiration Dates (MM/DD/YY) | Deductible Amt. | Insurance Company Providing Coverage |
|---|---|---|---|---|
| Commercial General Liab. | | | | |
| Limits: Single Limit (per occurrence) | | $ | Products & Completed Operations | $ |
| General Aggregate | | $ | Personal & Advertising Injury | $ |
| Premises Operations | | $ | Contractual | $ |
| Independent Contractor's Protection | | $ | Owned /Non-owned Vehicles | $ |
| Broad Form Property Damage | | $ | Medical Expense | $ |
| Commercial Auto Liability | | | | |
| Limits: Bodily Injury (per occurrence ) | | $ | Property Damage (per occurrence) | $ |
| Worker's Compensation & Employer's Liability | | | | |
| Limits: Worker's Compensation | | Statutory Limit | Disease (each employee) | $ |
| Each Accident | | $ | Disease (aggregate) | $ |
| Other: (specify) | | | | |
| Limits: (specify) | | $ | | $ |
| | | $ | | $ |

Such insurance as is herein certified (a) applies to all insurance issues in connection with the work/services required by Horry County Schools forming the *Contract Agreement*, (b) is written in accordance with the company's regular policies and endorsements, subject to the company's applicable manuals or rules and rates in effect, (c) has been issued on behalf of the insured Contractor named above, and (d) shall apply in total to the above named project. The District and its contracted Engineer (if any) shall be included as additional insured as its interests may appear. Each policy shall be endorsed to provide that the policy shall not be cancelled, changed, allowed to lapse, or allowed to expire until thirty (30) calendar days after the District has received written notice thereof as evidenced by proof of mailing notice to: Procurement Coordinator, Horry County Schools, P.O. Box 260005, Conway, SC 29528-6005.

By signature below, I, the agent, certify that I have been fully informed of the insurance requirements of the Contractor's contract with the District and such insurance as named herein is in force as of the date of this certificate.

Name & Title of Authorized Representative:

Signature of Authorized Representative: _____

Date Certificate Prepared & Signed:

# OFFICIAL BID FORM

BID NUMBER: 2021-12RF

PROJECT NAME: Bard Unit Replacement at Lakewood Elementary School (LWE)

FULL COMPLETION OF THIS FORM IS MANDATORY FOR A BID TO BE CONSIDERED. (This *Official Bid Form* and all requested documentation shall be mailed, expressed or hand delivered to the location(s) specified in the *Invitation for Bids* no later than the bid opening date and time, as may be amended by addendum.)

BASIC SUBMITTER INFORMATION:

Name of Submitting Company: _____

Mailing Address of Company: _____

Taxpayer Identification Number: _____

Qualifier's Name: _____ Phone Number: _____

Contractor's License Number: _____ Fax Number: _____

Contractor's Group Number: _____ Dollar Limitation of License: $

Email Address: _____

Company's Minority Status: ☐ Minority Owned Business ☐ Woman Owned Business ☐ Not Applicable
*(Must be certified by the State of South Carolina and will be used for statistical purposes only. Check if State certified: ☐)*

ADDENDA ACKNOWLEDGEMENT: *(Acknowledgement of all addenda issued is required.)*

| ADDENDA NO. | ADDENDA DATE | BIDDER'S INITIALS | ADDENDA NO. | ADDENDA DATE | BIDDER'S INITIALS |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

BID PRICING: Having carefully examined the Contract Documents with all corresponding terms, conditions, requirements, specifications, drawings, forms or other such descriptions of the work to be performed as well as the worksite and conditions affecting the work, the undersigned proposes to furnish all materials, labor, equipment and processes necessary for the base bid and bid alternates listed below. *(Failure of the Bidder to bid any alternate listed shall render the bid non-responsive. Check box to indicate addition, reduction, or no change from base bid.)* ***Round all bids to the nearest dollar.***

BASE BID (Lump Sum): Provide all work as described in the Drawings and Specifications using wall-hung heat pumps with energy recovery ventilators and hot gas reheat humidity control manufactured by Bard. (Include any allowances) Dollars: $ _____

(CAUTION: Bidders are required to include ALL costs in the above Base Bid and each Bid Alternate, if any. If the bid is accepted, the District will not contract for more than the amounts shown. The District reserves the right to accept bid alternates in any order or combination that serves its best interests and is within budget. If any numbers are illegible, the District's interpretation of the number is final.)

UNIT / INCREMENTAL PRICING: Unit pricing must be provided in the event a *Change Order* is necessary for the following types of work due to unforeseen circumstances. These unit prices shall be the installed price including all costs to the District. Unit costs shall not include bonding, overhead and profit, which shall be added at time of *Change Order*. The District reserves the right to negotiate any of the unit prices listed and, at the District's discretion, to use the same rates for deduct work under a *Change Order*.

NONE

SUBCONTRACTOR DISCLOSURE: As stipulated in the *Bid Instructions*, subcontractors who shall perform the trades listed below must be identified. When the Bidder intends to perform any trade listed with the Bidder's own forces, the Bidder shall be named in the place of any subcontractor required to be listed. Listing any subcontractor that does not meet the qualifications stated in the *Bid Instructions* or does not meet the licensing requirements of the State of South Carolina shall render the bid non-responsive.

Base Bid:

| TRADE | SUBCONTRACTING COMPANY NAME | LICENSE NUMBER |
|---|---|---|
| Electrical | | |
| Air Conditioning | | |

CONFLICTS OF INTEREST IDENTIFICATION: Identify any employee, agent or representative of the Architect/Engineer or District (including members of the Horry County Board of Education) with more than a five percent (5%) interest in the Contractor's business. ☐ Not applicable

Names: _____

Identify any employee, agent or representative of the Architect/Engineer or District (including members of the Horry County Board of Education) that will be subcontracting any work for the project. ☐ Not applicable

Names: _____

ACKNOWLEDGEMENT:

1. Have you clearly listed any deviations from the requested specifications and fully explained such deviations? ☐ Yes ☐ No ☐ N/A – No Deviations

BID CERTIFICATION: I, the undersigned, certify that I am an authorized signatory for the bidding company identified in this bid form with authority to submit bids and obligate the company to a contract for the work identified in the Contract Documents provided by Horry County Schools. I have read and fully understand the Contract Documents such that I have full knowledge of all of the work to be performed and the terms, conditions, and requirements the company I represent must comply with if a contract is awarded. I further understand that the bidding company I represent must comply with all applicable local, state and federal laws related to the work to be performed and to the payment of subcontractors. I certify that the information included on this form or as attached supplementary information is true and accurate to the best of my knowledge, understanding, and belief. I understand that misrepresentation of any information on this form shall result in the bid being considered non-responsive.

| BIDDER: | NOTARY: | CORPORATE SEAL: |
|---|---|---|
| Name & Title of Authorized Signatory: | State of: County of:<br>Subscribed and sworn to before me on this date: | |
| Signature: | Signature: _____<br>My Commission Expires: | |

REMINDER: The following documents must be submitted with this *Official Bid Form*:

1. A fully executed *Bid Bond*, including power of attorney, or other approved security.
2. Other documents as checked and identified below:
   ☐
   ☐

# BID BOND

| | |
|---|---|
| PRINCIPAL (BIDDER): *(Name and Business Address)*<br><br>Contact Name: Phone: | TYPE OF ORGANIZATION:<br>☐ Individual ☐ Partnership<br>☐ Joint Venture ☐ Corporation<br><br>Principal organized under the laws of the State of: |
| OWNER (THE DISTRICT): (Name and Business Address)<br><br>Horry County Schools<br>335 Four Mile Road, P.O. Box 260005<br>Conway, South Carolina 29528-6005<br>Contact Name: Rickey Frazier Phone: 843-488-6942 | BID IDENTIFICATION:<br><br>Project / Bid Number: 2021-12RF<br><br>Project Name: Bard Unit Replacement at Lakewood Elementary School (LWE) |
| SURETY: [Name and Business Address)<br><br>Contact Name: Phone: | Surety's Best Key Rating:<br><br>Surety's Financial Strength Rating:<br><br>Surety organized under the laws of the State of: |

PENAL SUM OF BOND IS FIVE PERCENT (5%) OF TOTAL BASE BID PLUS ALL ALTERNATES NOT TO EXCEED: $

OBLIGATION:
We, the Principal and Surety are firmly bound to Horry County Schools (hereinafter called the District) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

CONDITIONS:
The Principal has submitted the bid referenced and identified above.

THEREFORE:
The above obligation is void if the Principal, upon acceptance by the District of the bid identified above within forty-five (45) days from the bid opening date and time as amended by any addendum to the bid, is found by the District to be a responsive and responsible Bidder, and who a) executes the *Contract Agreement*, b) provides to the District a fully executed *Performance Bond* and *Payment Bond*, c) has its insurance provider submit a bona-fide *Certificate of Insurance* and, d) provides all other documents required by the terms of the bid and by the date stated in the *Notice of Intent to Award* or, in the event of failure to execute one or more of the contractual documents or in the event of refusal of the Principal to comply with other such requirements of the *Bid Instructions*, pays the District for any cost of procuring the work which exceeds the amount of the Principal's bid not to exceed the penal sum so stated.

Such Surety executing this instrument agrees that its obligation is not impaired by any extension of the time for acceptance of the bid that the Principal may grant to the District. Notice to the Surety of any extension of time is waived; however, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the forty-five (45) calendar days originally allowed for acceptance of the bid.

WITNESS:
The Principal and Surety executed this bid bond and affixed their seals on this date of:

PRINCIPAL'S SIGNATORY

NAME & TITLE:

SIGNATURE: _____

Corporate Seal

SURETY SIGNATORY

NAME & TITLE:

SIGNATURE: _____

Corporate Seal

A fully executed Power of Attorney must accompany this bond when submitted with the *Official Bid Form*.