

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC C-700 (2007 Edition). All provisions which are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

A. *Mandatory Supplementary Conditions*

1. Insurance

Workers Compensation – Contractor shall maintain Worker’s Compensation Insurance & Employers Liability in accordance with the State of South Carolina Code.

Business Auto Policy – Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$500,000 each occurrence for all owned, non-owned and hired automobiles.

Commercial General Liability – Commercial General Liability for public liability during the lifetime of a contract shall have minimum limits of \$1,000,000 per claim, \$2,000,000 per occurrence for Personal Injury, Bodily Injury, and Property Damage Liability. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Complete Operations, Contractual Liability and Broad Form Property Damage Endorsements. Coverage shall not contain an exclusion or limitation endorsement for Contractual Liability or Cross Liability. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work to be performed. All insurance policies shall be issued from a company or companies duly licensed by the State of South Carolina. Specific endorsements will be requested depending upon the type and scope of work to be performed.

Professional Liability (for Professional Services only) – Contractor shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the Town reserves the right, but not the obligation, to review and request a copy of Vendors most recent annual report or audited financial statement.

Additional Insured Requirements – Except as to Workers’ Compensation and Employers’ Liability, said certificate(s) shall clearly state that coverage required by the contract has been endorsed as follows:

The Town of Bluffton, a municipality of the State of South Carolina, its officers, agents and employees as additional insured.

The Certificate of Insurance shall unequivocally provide thirty (30) days written notice to the Town prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Said liability insurance must be acceptable by and approved by the Town as to form and types of coverage.

2. **Terms of the Grant**

Funding for this project derives wholly or in part from a grant issued by the South Carolina Department of Health and Environmental Control. The Contractor shall abide by and hold subcontractors to the following requirements:

1. **Minority Business**

The Grantee must make positive efforts to use small and minority owned businesses and individuals.

2. **Drug Free Workplace**

By signing this Grant Agreement, grantee certifies that it will comply with all applicable provisions of The Drug-free Workplace Act, S. C. Code of Laws, Section 44-107-10 et. seq. as amended.

3. **Debarment**

Grantee certifies that it has not been debarred, suspended, proposed for debarment, or declared ineligible for the award of Grant Agreements by any state, federal or local agency. This certification is a material representation of fact upon which reliance was placed when entering into this Grant Agreement. If it is later determined that the Grantee knowingly or in bad faith rendered an erroneous certification, SC DHEC may terminate the Grant Agreement for cause in addition to other remedies available.

4. **Preventing and Reporting Fraud, Waste and Abuse**

SC DHEC has procedures and policies concerning the prevention and reporting of fraud, waste and abuse (FWA) in agency-funded programs, including but not limited to those funded by federal grants such as Medicaid. No agency employee, agent, or grantee shall direct, participate in, approve, or tolerate any violation of federal or State laws regarding FWA in government programs.

Federal law prohibits any person or company from knowingly submitting false or fraudulent claims or statements to a federally funded program, including false claims for payment or conspiracy to get such a claim approved or paid. The False Claims Act, 31 U.S.C. §3729-3733, and other "whistleblower" statutes include remedies for employees who are retaliated against in their employment for reporting violations of the Act or for reporting fraud, waste, abuse, or violations of law in connection with federal contracts or grants, or danger to public health or safety. Under State law, persons may be criminally prosecuted for false claims made for health care benefits, for Medicaid fraud, for insurance fraud, or for using a computer in a fraud scheme or to obtain money or services by false representations. Additional information regarding the federal and State laws prohibiting false claims and

SCDHEC's policies and procedures regarding false claims may be obtained from the agency's Contracts Manager or Bureau of Business Management.

Any employee, agent, or grantee of SCDHEC who submits a false claim in violation of federal or State laws will be reported to appropriate authorities.

If Grantee, Grantee's agents or employees have reason to suspect FWA in agency programs, this information should be reported in confidence to the agency. A report may be made by writing to the Office of Internal Audits, DHEC, 2600 Bull Street, Columbia, SC 29201; or by calling the Agency Fraud, Waste and Abuse Hotline at 803-896-0650 or toll-free at 1-866-206-5202. Grantee is required to inform Grantee's employees of the existence of DHEC's policy prohibiting FWA and the procedures for reporting FWA to the agency. Grantee must also inform Grantee's employees, in writing, of their rights and remedies under 41 U.S.C. §4712 concerning reporting FWA or violations of law in connection with federal contracts or grants, or danger to public health or safety, in the predominant native language of the workforce.

5. Subrecipient

Audit: All Grantees (Subrecipients), except for-profit entities, must submit a certification of total federal and state grant expenditures upon request from SC DHEC. If Grantees (Subrecipient) expends \$750,000 or more in federal awards from all sources during the fiscal year, Grantee(Subrecipient) must have a single or program-specific audit conducted for the fiscal year, in accordance with the provisions of 2 CFR Part 200, Subpart F.

a. The Audit Grantee (Subrecipient) shall be completed and submitted within the earlier of 30 days after receipt of the auditor's reports(s), or nine months after the end of the audit period.

The Grantee (Subrecipient) agrees to send one copy of any audit conducted under the provisions of 2 CFR Part 200, Subpart, to:

SC DHEC
Office of Internal Audits
2600 Bull Street

Entities which are audited as part of the State of South Carolina Statewide Single Audit are not required to furnish a copy of that audit report to SC DHEC's Office of Internal Audits.

Non-federal entities that expend less than \$750,000 a year in total federal awards, from all sources, are exempt from the Federal audit requirements of OMB Circular A-133 for that year, but records must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and General Accounting Office (GAO).

A Grantee (Subrecipient) is prohibited from charging the cost of an audit to federal Awards if the grantee expended less than \$750,000 from all sources of federal funding in the grantee's fiscal year. If the grantee expends less than \$750,000 in federal funding from all sources in the grantee's fiscal year, but obtains an audit paid for by non-federal funding, then DHEC requests a copy of that audit to be sent to:

Jana Baxley
SC DHEC Bureau of Water
319 Grant Program

2600 Bull Street
Columbia, SC 29201-1708
Phone: (803) 898-4213
Columbia, SC 29201

b. Indirect Costs: As a Subrecipient, if Grantee (Subrecipient) utilizes an indirect cost rate, the Grantee (Subrecipient) must provide a copy of the approved indirect cost rate letter from its federal cognizant agency OR an indirect cost rate **reviewed and approved** by an external auditor in accordance with GAAP. Otherwise, only direct charges will be allowed under the terms and conditions of this Grant Agreement.

c. FFATA Reporting: As a recipient of FFATA funds you are required to report the following minimum data elements to DHEC. Additional data elements may be required by subsequent OMB guidance or regulation.

(DO NOT ENTER THIS INFORMATION IN THE FEDERAL REPORTING DATABASE, ONLY REPORT IT BACK TO DHEC. DHEC BUREAU OF FINANCIAL MANAGEMENT IS RESPONSIBLE FOR REPORTING THIS INFORMATION TO THE FEDERAL GOVERNMENT)

1. *Data Universal Numbering System (DUNS) 9-digit number*
2. *Contract number*
3. *Subrecipient name as registered in the Central Contractor Registration*
4. *Amount of award received*
5. *Total Amount of contract awarded*
6. *Date contract was signed by both parties*
7. *Total contract period*
8. *Physical location of primary place of performance*
 - a. *State*
 - b. *Population*
 - c. *City*
 - d. *Congressional District*
 - e. *County*
 - f. *Area of Benefit (i.e., state, county, city, school district)*
9. *Top 5 most highly compensated officers and their compensation*

6. Semi-annual Reporting

Twice a year (semi-annually) during the Grant Agreement period and following the performance of services described in Section A, the Grantee **MUST** submit a MBE/WBE Form to SC DHEC (due April 5th & October 5th). The MBE/WBE **MUST** be submitted using forms and guidelines provided by SCDHEC staff. Reconciled MBE/WBE forms which list the names and addresses of all Minority, Woman, or Other owned business enterprises which were expended for any project expense excluding Personnel Expenses, Fringe Expenses, or Travel Expenses. **EVERY** procurement outside of Personnel, Fringe or Travel **MUST** be included on the MBE/WBE form and it must reconcile with the prior submitted invoices.

7. Lobbying

a. Contractors and Grantees, including subcontractors, sub grantees, and sub recipients, who receive federal funds pursuant to this Grant Agreement, are prohibited from using any of the grant funds to engage in lobbying activities, and must adhere to applicable statutes and regulations as a condition of receiving the federal funds. These prohibited activities include both direct and "grass roots" lobbying at the federal, state, and local levels, legislative and executive functions.

b. No part of any Grant Agreement or Contract funds will be used to pay the salary or expenses of any person related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government. This prohibition shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

c. 31 U.S.C. §1352 certification (45 CFR Part 93). The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief, that:

i. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

8. EPA Funds

The Grantee ensures to the fullest extent possible that all procurements made with funds provided under this Grant Agreement will be made from Disadvantaged Business Enterprise (DBE) organizations based on the following minimum percentages by category:

Category	MBE	WBE
Construction	2.5%	2.5%
Supplies	5.0%	5.0%
Services	5.0%	5.0%
Equipment	3.0%	3.0%

This information will be reported on a semi-annual basis on the MBE/WBE report and must reconcile with all invoiced amounts.

9. Revisions of Laws

The Grantee will comply with the Federal regulations as described in 40 CFR 31: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. The provisions of the Grant Agreement are contingent upon any possible revision of Federal regulations and requirements governing 319(h) Nonpoint Source Grants.

10. Management Fees and Similar Charges

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this Grant Agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Grant Agreement, except to the extent authorized as a direct cost of carrying out the scope of work as outlined in Attachment 1.

11. Recycled Paper

In accordance with EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 2, 2007), the recipient agrees to use recycled paper for all reports, which are prepared as a part of this Grant Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by available through the General Services Administration.

Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA

Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

12. Hotel-Motel Fire Safety

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act.

13. Food and Refreshments

Unless the event(s) and all of its components (i.e., receptions, banquets and other activities that take place after normal business hours) are described in the approved workplan, the recipient agrees to obtain prior approval from SC DHEC and EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The grantee must send requests for approval to the SC DHEC Nonpoint Source Coordinator and include:

- I. An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- II. A description of the purpose, agenda, location, length and timing for the event.
- III. An estimated number of participants in the event and a description of their roles.

Grantees may address questions about whether costs for light refreshments, and meals for events are allowable to the Nonpoint Source Coordinator. However, EPA will make final determinations on allowability. Federal policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 30174.11)

14. Permits

The Grantee agrees to ensure that all necessary permits (such as Clean Water Act § 404) are obtained prior to implementation of any grant funded activity that may fall under applicable federal, state or local laws. The workplan (Attachment 1) must identify permits that may be needed to complete work plan activities. The Grantee must keep documentation regarding necessary permits in the project file. EPA approval of a workplan does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity.

15. Iran Divestment Act - Certification

- a. The Iran Divestment Act List is a list published by the Budget & Control Board pursuant to S.C. Code Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at <http://procurement.sc.gov/PS/PS-irandivestment.phtm>.

b. By entering into this Grant Agreement, Grantee certifies that, as of the execution and effective date of the Grant Agreement, Grantee is not on the then-current version of the Iran Divestment Act List. This representation is a material inducement for SCDHEC to enter into this Grant Agreement.

16. Iran Divestment Act — Ongoing Obligations

a. Grantee must notify the DHEC Contracts Manager immediately if, at any time during the Grant Agreement term, Grantee is added to the Iran Divestment Act List established pursuant to S.C. Code Ann. Section 11-57-310.

b. Consistent with Section 11- 57-330(8), Grantee shall not Grant Agreement with any person to perform a part of the services under this Grant Agreement, if, at the time Grantee enters into the subcontract, that person is on the then-current version of the Iran Divestment Act List.

17. Open Trade Representation

Grantee represents that Grantee is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in S.C. Code Section 11-35-5300.

Open Trade

During the Grant Agreement term, including any renewals or extensions, Grantee will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in S.C. Code Section 11-35-5300.

18. Tobacco-Free Campus Policy

Use of all tobacco products, including smokeless tobacco and electronic cigarettes, is prohibited in any facility or on any property owned or controlled by DHEC (including parking lots, parking garages, sidewalks, and breezeways).

19. Cost shared BMPs

As required by EPA, projects with Agricultural Best Management Practices (BMPs), that involve cost shared installation of best management practices, the Grantee and cooperating agencies are authorized to use average costs, in accordance with procedures established in Title 120 of the USDA Natural Resources Conservation Service General Manual, for establishing and documenting the costs for agricultural BMPs.

20. Animal Feeding Operations

As required by EPA, any Animal Feeding Operation (AFO) that receives financial assistance pursuant to this grant must have and implement a nutrient management plan that: 1) provides and maintains buffers or equivalent practices; 2) diverts clean water; 3) prevents direct contact of confined animals with water of the United States; 4) addresses animal mortality; 5) addresses chemical disposal; 6) addresses proper operation and maintenance; 7) addresses record keeping and testing; 8) maintains proper storage capacity; 9) addresses rates and timing of land application of manure and wastewater. SC DHEC approval of the Plan must be obtained before

cost share funds are dispensed to the producer. Producers that have approved plans should provide permit number so that its existence may be verified.

21. Maintenance

As required by EPA, the Grantee shall ensure that any on-the-ground Best Management Practices that are funded with Section 319 grant dollars are properly operated and maintained for the normal expected useful life of the practice.

22. Outputs

Informational materials, including but not limited to reports, manuals, brochures, fact sheets, newsletters, posters, videos, and Internet home pages, produced under a project funded by a Section 319 Grant must acknowledge SC DHEC and the US EPA as the funding source by including this phrase, "**This project was funded wholly or in part by the US EPA under a Section 319 Grant through the SC Department of Health and Environmental Control (SC DHEC).**"

B. Relationship of Supplementary Conditions to Other Contract Documents

In the event of conflicts or discrepancies among the Contract Documents, interpretations shall be based on the following priorities:

- i. The Modifications
- ii. The Supplemental Terms and Conditions
- iii. The Agreement
- iv. The General Conditions of the Contract for Construction
- v. Drawings and Specifications
- vi. Other documents