



**Indefinite Delivery of
General Contracting Services**

Project Number: H27-D163-CA

June 11, 2012

TABLE OF CONTENTS

Project Name: **Indefinite Delivery of General Contracting Services**
Project Number: **H27- D163-CA**

Table of Contents

Invitation for Bids (SE-310)

00200 – IDC Instruction to Bidders for Indefinite Delivery Contract-Construction

AIA A310 Bid Bond

University of South Carolina Contract for Indefinite Delivery of Construction Services

Terms and Conditions of USC for IDC of Construction Services

Bid Form (SE-330)

USC Request for Quote Form

Performance Bond (SE-355)

Labor & Material Payment Bond (SE-357)

Construction Services Delivery Order Modification (SE-690)

Construction Services Delivery Order (SE-680)

USC Supplemental General Conditions for Construction Projects

Contractor's One Year Guarantee

Technical Specifications:

Demolition

Concrete Crack Repair and Cutting

Concrete Installation

Concrete Stains Removal

SE-310
REQUEST FOR ADVERTISEMENT

2011 Edition
Rev. 7/20/2011

PROJECT NAME: Indefinite Delivery of General Contracting Services

PROJECT NUMBER: H27-D163-CA

PROJECT LOCATION: Columbia, South Carolina

Contractor may be subject to performance appraisal at close of project

BID SECURITY REQUIRED? Yes No

PERFORMANCE & PAYMENT BONDS REQUIRED? Yes No

CONSTRUCTION COST RANGE: <\$250K

DESCRIPTION OF PROJECT: To provide Indefinite Delivery of General Contracting Services for all USC campuses statewide. The basis for this award will be determined by low bid for an actual project(Swearingen Building Courtyard). The project consists of the break out & removal of existing tile floor & mortar bed underneath atrium area. The repairing of concrete cracks & installation of a new concrete surface. The contractor shall possess a Group 3 or greater General Contractor's License. A total of 10 contractors will be selected for this contract. Small & minority business participation is encouraged.

A/E NAME: Chao and Associates, Inc

A/E CONTACT: Tong Li

A/E ADDRESS: Street/PO Box:7 Clusters Court

City: Columbia

State: SC ZIP: 29210-

EMAIL: tongl@chaoinc.com

TELEPHONE: 803.772.8420

FAX: 803.772.9120

All questions & correspondence concerning this Invitation shall be addressed to the A/E.

BIDDING DOCUMENTS/PLANS MAY BE OBTAINED FROM: http://purchasing.sc.edu

PLAN DEPOSIT AMOUNT: \$0.00 IS DEPOSIT REFUNDABLE: Yes No

Only those Bidding Documents/Plans obtained from the above listed source(s) are official. Bidders rely on copies of Bidding Documents/Plans obtained from any other source at their own risk.

BIDDING DOCUMENTS/PLANS ARE ALSO ON FILE FOR VIEWING PURPOSES ONLY AT *(list name and location for each plan room or other entity):*

http://purchasing.sc.edu

It is the contractor's responsibility to download all plans, specifications, addenda and awards from the purchasing website.

PRE-BID CONFERENCE? Yes No MANDATORY ATTENDANCE? Yes No

DATE: 8/30/2012 TIME: 10am PLACE: USC, 743 Greene Street, Columbia, SC 29208, Conference Room 53

AGENCY: University of South Carolina

NAME OF AGENCY PROCUREMENT OFFICER: Juaquana Brookins

ADDRESS: Street/PO Box:743 Greene Street

City: Columbia

State: SC ZIP: 29208-

EMAIL: jbrookin@fmc.sc.edu

TELEPHONE: 803-777-3596

FAX: 803-777-7334

BID CLOSING DATE: 9/10/2012 TIME: 2pm LOCATION: USC, 743 Greene Street, Columbia, SC, 29208, Conf. Rm. 53

BID DELIVERY ADDRESSES:

HAND-DELIVERY:

Attn: Juaquana Brookins

University of South Carolina

743 Greene Street

Columbia, SC 29208

MAIL SERVICE:

Attn: Juaquana Brookins

University of South Carolina

743 Greene Street


Columbia, SC 29208

SE-310
REQUEST FOR ADVERTISEMENT

2011 Edition
Rev. 7/20/2011

IS PROJECT WITHIN AGENCY CONSTRUCTION CERTIFICATION? (Agency MUST check one) Yes No

APPROVED BY (Office of State Engineer):

 DATE: 8-16-12

00200-IDC
INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION

SECTION I - GENERAL

A. General Information:

1. It is the intention of University of South Carolina to solicit Indefinite Delivery Contract(s) for construction services generally described as new construction, renovation, restoration, and repair work for facilities owned or operated by the Owner. Construction services are to be performed at the following location(s): All University of South Carolina campuses statewide.
2. This solicitation is to be awarded and the contract administered by one of the following methods:

- Low Bid IDC** This solicitation includes an actual project that the Owner will award, along with an Indefinite Delivery Contract, to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder shall perform the construction of the actual project for its bid price. Multiple IDC contracts will be awarded under this solicitation.

Future construction services identified throughout the term of this Contract will be awarded through competitive bidding amongst contractors awarded a contract through this solicitation. A Construction Services Delivery Order will be issued to the lowest bidder for each future delivery order.

- Cost Data Guide Multiplier IDC** This solicitation utilizes a bidder-provided multiplier to apply to a published cost data guide as the basis for initial contract award and future Construction Services Delivery Orders. Bidders are to bid a multiplier that will be applied to the unit prices contained in the cost data guide listed here. Award will be based on the lowest multiplier(s). Multiple contracts may be awarded under this solicitation. The multiplier times the unit prices in the listed cost data guide times the quantity of construction services to be performed will be the basis of award for future Construction Services Delivery Orders. The quantities of construction services to be performed will be agreed upon by the Owner and Contractor. Prices listed in the cost data guide are inclusive of costs to the contractor including overhead, mobilization, installation, labor and profit. If a contractor chooses to subcontract some or all of the construction services, the same contractual multiplier is to be applied to the unit prices contained in the cost data guide for pricing the subcontracted construction services. However, if the subcontracted construction services are outside the contractor's license authority, the contractor may include a markup of 13% on the price of the subcontracted construction services. No markup is allowed for subcontracted construction services within the contractor's license category (ies) required for this solicitation. No other additions to the cost of the construction services will be permitted except the cost of Performance and Payment Bonds, if required for specific Construction Services Delivery Orders. The cost data guide and edition to be used for this solicitation is:

The Owner will identify future construction services to be done throughout the term of this Contract and will meet with the ID Contractor to develop a Request for Quotes Form and agree on which Cost Data Guide unit prices and quantities are to be used to price the construction services. Once the contractor agrees in writing on the Cost Data Guide unit prices and quantities applicable to the Request for Quotes Form, the Owner will award the Construction Services Delivery Order. If more than 20% of the construction services are not covered by the Cost Data Guide unit prices and the construction services are within the scope of this solicitation, competitive quotes will be solicited from all ID contractors. Pricing from each ID contractor shall not exceed the applicable Cost Data Guide unit prices for that portion of construction services covered by the contractual Cost Data Guide and a separate portion (lump-sum bid amount) of the quote for construction services not covered by the Cost Data Guide.

00200-IDC

INSTRUCTIONS TO BIDDERS INDEFINITE DELIVERY CONTRACT – CONSTRUCTION

- Unit Price IDC** This solicitation utilizes Unit Prices, included in this bid package to be used for Delivery Orders. The contractual Unit Prices multiplied by the quantity of construction services to be performed will be the basis of award for Construction Services Delivery Orders. The Unit Prices are to be inclusive of costs to the Contractor including overhead, mobilization, installation labor and profit. The Contractor may not add any other markup to the contractual Unit Prices. If a Contractor chooses to subcontract some or all of the construction services, the same contractual Unit Prices shall be used for pricing. However, if the subcontracted construction services are outside the Contractor's license authority, as required by this solicitation, the Contractor may include a markup of 13% on the price of subcontracted construction services. No markup is allowed for construction services within the Contractor's license category (ies) required by this solicitation. No other additions to the cost of the construction services will be permitted except the cost of Performance and Payment Bonds, if required for specific Construction Services Delivery Orders.

The Owner will identify future construction services to be done throughout the term of this Contract and will meet with the ID Contractor to develop a Request for Quotes Form and agree on which Unit Prices and quantities are to be used to price the construction services. Once the contractor agrees in writing on the Unit Prices and quantities applicable to the scope of work, the Owner will award the Construction Services Delivery Order. If more than 20% of the construction services are not covered by the Unit Prices and the construction services are within the scope of this solicitation, competitive quotes will be solicited from all ID contractors. Pricing from each ID Contractor shall not exceed the applicable Unit Prices for that portion of construction services covered by the contractual Unit Prices and a separate portion (lump-sum bid amount) of the quote for construction services not covered by the Unit Prices

3. The Owner intends to award a contract to the lowest responsive and responsible bidder. The Owner will award **10** Indefinite Delivery Contracts to other bidders responding to this solicitation, starting with the second lowest responsible and responsive bidder and so forth, in the manner set forth in these instructions.
4. The Owner **does not** guarantee a minimum amount of work, **and** does not guarantee the size or quantity of any Construction Services Delivery Orders awarded pursuant to this solicitation.
5. The minimum amount of work guaranteed for this contract shall be: **\$0.00**. The Owner estimates that **\$7,500,000.00** of work will be awarded under **these** contracts. This estimate is not a representation to an offeror or contractor that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable or normal. Failure to bid or quote future work, if awarded a Contract, will result in the forfeiture of this guarantee and possible termination of the Contract.
6. This solicitation does not commit the Owner to award a Contract nor to pay for any cost incurred by the bidder in the preparation of a bid.
7. All Indefinite Delivery Contracts issued under this solicitation will be for a period of time not to exceed two years from the date of Contract execution unless otherwise stated here:
8. Each Indefinite Delivery Contract shall allow the Owner to award a Contractor a total amount of work via Construction Services Delivery Orders not exceeding **\$1,000,000**. No single Construction Services Delivery Order or project may exceed **\$250,000**.
9. The form of the Contract shall be: University of South Carolina Contract for the Indefinite Delivery of Construction Services
10. Other information concerning this solicitation:

B. Architect/Engineer:

1. The Architect or Engineer of Record (A/E) will be identified on each Construction Services Delivery Order.
2. In the absence of an A/E the Owner will act in that capacity.

C. Contractor's Licensing:

1. Contractors are required by the South Carolina Code of Laws to be properly licensed in the license

00200-IDC

INSTRUCTIONS TO BIDDERS INDEFINITE DELIVERY CONTRACT – CONSTRUCTION

category and the group classification to permit an award of Construction Services Delivery Orders of **\$250,000** per single project at the time of bidding.

2. The contractor license category (ies) required for this work is: **Group 3 or greater General Contracting License**
3. **This** license must be maintained for the term of the Contract.

D. Subcontractors:

1. Some incidental work may be necessary under a Construction Services Delivery Order that will require performance not authorized by the license category required by this solicitation. A properly licensed subcontractor shall be utilized, and the terms and conditions of the Contract must be passed to the sub-contractor to protect the rights of the Owner.
2. Subcontractors shall be properly licensed as required by the South Carolina Code of Laws.
3. The Owner reserves the right to review the Contractor's proposed subcontractors and to request substitution of those to which the Owner has reasonable objection.

E. Definitions:

1. The term "Indefinite Delivery Contract" (IDC) means a contract that does not procure or specify a defined quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of delivery orders for the performance of tasks during the period of the contract.
2. A Construction IDC is a contract whereby the contractor agrees to provide the Owner construction services on an "as-needed" basis during the term of the Contract.
3. A Construction Services Delivery Order is an order issued by an Owner for a Contractor to perform work (tasks) under an IDC.
4. Any reference to "Manual" means the *Manual for Planning and Execution of State Permanent Improvements-Part II* as issued by the Office of State Engineer (OSE).
5. Bidding Documents collectively referred to as the Invitation for Bids; include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement, Instructions to Bidders for IDC (00200-IDC), the Bid Form **SE-330**, the Intent to Award Notice (SE-370), and other sample bidding and contract forms. The proposed Contract Documents consist of the Form of the Contract for Indefinite Delivery Services Between the Owner and Contractor, Terms and Conditions of the Contract (General, Supplementary and Other Conditions), Drawings, Specifications, all Addenda issued prior to execution of the Contract, and other documents set forth in the Bidding Documents.

SECTION II – PRE-BID CONFERENCES AND SITE VISITS

- A. The Owner may hold a pre-bid conference or site visit as a prerequisite for bidding as specified in the Advertisement.
- B. The Owner has the right to schedule more than one pre-bid conference or site visit if deemed to be in the best interest of the State.
- C. As provided in Regulation 19-445.2042(B), nothing stated at the pre-bid conference shall change the Bidding Documents unless a change is made by written Addendum.
- D. As provided in Regulation 19-445.2042(B), a bidder's failure to attend an advertised pre-bid conference will not excuse its responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

SECTION III - OBTAINING BIDDING DOCUMENTS

- A. Bidders may obtain complete sets of the Bidding Documents from the issuing office specified in the Advertisement in the number and for the deposit sum, if any, stated therein. If so provided in the Advertisement, the deposit will be refunded to all plan holders who return the Bidding Documents in good condition within ten (10) days after receipt of bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A bidder receiving a Contract award may retain the Bidding Documents and the bidder's deposit will be refunded.
- B. Bidders shall use complete sets of documents as obtained from the source specified in the Advertisement. No partial sets will be issued.
- C. All persons obtaining Bidding Documents from the issuing office specified in the Advertisement shall provide that office with Bidder's contact information to include the Bidder's name, telephone number, mailing address, and email address.

SECTION IV - EXAMINATION OF BIDDING DOCUMENTS

- A. Bidders are expected to examine the Bidding Documents and Contract Documents thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements. Failure to do so will be at the bidder's risk. Bidder assumes responsibility for any patent ambiguity that bidder does not bring to the Owner's attention prior to bid opening.
- B. Should the bidder notice any errors, conflicts or other inconsistencies with the bidding documents, the bidder shall notify the A/E in writing.
- C. Corrections, interpretations and changes, which modify the bid documents, will be made by official addendum only. Any other form of communication, oral or written, is unofficial and non-binding on the Owner.
- D. Reference in the Bidding Documents to a designated material, product, thing, or service by specific brand or trade name followed by the words "or equal" and "or approved equal" shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition.
- E. No request to substitute materials, products, or equipment for materials, products, or equipment described in the bidding documents and no request for addition of a manufacturer or supplier to a list of approved manufacturers or suppliers in the Bidding Documents will be considered prior to receipt of Bids unless written request for approval has been received by the A/E at least ten (10) days prior to the date for receipt of bids established in the Advertisement. Any subsequent extension of the date for receipt of bids by addendum shall not extend the date for receipt of such requests unless the addendum so specifies. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the solicitation, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The A/E's decision of approval or disapproval of a proposed substitution shall be final.

SECTION V - ADDENDA

- A. If the A/E amends the Contract Documents prior to bidding, an addendum will be issued. All addenda will be sent to all prospective bidders who have obtained bid documents as specified in the Advertisement. No addendum will be issued later than 120 hours prior to time for receipt of bids except an addendum withdrawing the request for bids or one which includes postponement of the date for receipt of bids.
- B. When the date for receipt of bids is to be postponed and there is insufficient time to issue a written Addendum prior to the original Bid Date, Owner will notify prospective bidders by telephone or other appropriate means with immediate follow up with a written addendum. This addendum will verify the postponement of the original Bid Date and establish a new Bid Date. The new Bid Date will be no earlier than the fifth (5th) calendar day after the date of issuance of the addendum postponing the original or amended Bid Date.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

- C. If an emergency or unanticipated event interrupts normal government processes so that bids cannot be received at the government office designated for receipt of bids by the exact time specified in the Advertisement, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the Advertisement, or amended by addendum, on the first work day on which normal government processes resume. In lieu of an automatic extension, an addendum may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an addendum will be issued to reschedule the conference. Useful information may be available at: http://www.scemd.org/scgovweb/weather_alert.html
- D. Bidders are responsible to ascertain that they have received copies of all addenda issued prior to bidding. Bids received that do not acknowledge receipt of all addenda shall be rejected as non-responsive except for the following reasons:
 - 1. The addendum only gives clarifications; or,
 - 2. The bid received clearly indicates that the bidder received the addendum; or,
 - 3. The addendum clearly would have had no effect or merely a trivial or negligible effect on price, quality, quantity, or delivery as defined in The Consolidated Procurement Code, Regulations, and Manual, and does not affect the relative standing of the Bidders. Under no circumstances can the bid amount be changed or modified.
- E. All persons obtaining Bidding Documents from the issuing office designated in the Advertisement shall provide that office with bidder's contact information to include the bidder's name, telephone number, mailing address, and email address.
- F. Addenda will be sent, and other official communications will be conducted, via e-mail unless otherwise stated in the Advertisement.

SECTION VI - PREPARATION AND DELIVERY OF BIDS

- A. Any blanks on the bid form to be filled in by the bidder shall be legibly executed in a non-erasable medium. Bids shall be signed in ink or other indelible media.
- B. Sums and multipliers shall be expressed in figures.
- C. Bidder shall not make stipulations or qualify the bid in any manner not permitted on the bid form. An incomplete bid or information not requested that is written on or attached to the Bid Form that could be considered a qualification of the bid, may be cause for rejection of the bid.
- D. Each copy of the bid shall state the legal name of the bidder and the nature of legal form of the bidder. Each copy shall be signed by the person or persons legally authorized to bind the bidder to a Contract. A bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the bidder.
- E. Bids and Bid Security, and any other documents required to be submitted with the bid should be enclosed in a sealed, opaque envelope. The envelope should be addressed to the party receiving the bids and shall be identified with the project name, number, and the bidder's name and address.
- F. The Bidder shall assume full responsibility for timely delivery of the bid at the appropriate location designated for the receipt of bids as specified in the Advertisement.
 - 1. Bidders attending the bid opening should bring their bids to the place of the bid opening and deliver the bid to the Procurement Officer of the Owner or his designee prior to the time of the bid opening.
 - 2. Bids sent by mail or special delivery service (USPS, UPS, Federal Express, etc.) should be labeled "SEALED BID ENCLOSED", and shall be addressed to the Owner's designated purchasing office as specified in the advertisement. Delivery of bids to the specified location shall be prior to the time of bid opening. Bids not received at the above location or the advertised mail room prior to the time of bid opening will be subject to rejection.
 - 3. Bidders hand delivering their bids shall deliver bids to the place of the Bid Opening as shown in the Advertisement. Whether or not bidders attend the Bid Opening, they shall give their bids to the Owner's procurement officer or his/her designee as shown in the Advertisement prior to the time of the Bid Opening.
- G. Bidders should include all special documents requested to be submitted with the bid. If these documents are not included with the bid, the bidder shall have 24 hours after the time set for the bid opening to submit these documents or the bid may be considered non-responsive.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

- H. The official time for receipt of bids will be determined by reference to the clock designated by the Owner's procurement officer or his/her designee. The Procurement Officer conducting the bid opening will determine and announce that the deadline has arrived and no further bids or bid modifications will be accepted. All bids and bid modifications in the possession of the Procurement Officer at the time the announcement is completed will be timely, whether or not the bid envelope has been date/time stamped or otherwise marked by the Procurement Officer.

SECTION VII - BIDDER'S REPRESENTATIONS

By submitting a bid for this solicitation, the bidder certifies that:

- A. **Disclosure of Conflicts of Interest or Unfair Competitive Advantage:** You warrant and represent that your bid identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. Without limitation, an unfair competitive advantage exists where a contractor competing for award possesses either proprietary information that was obtained from a government official without proper authorization or source selection information (as defined in Regulation 19-445.2010(C) that is relevant to the contract but is not available to all competitors, and such information would assist that contractor in obtaining the contract. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, a bidder will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.

- B. **Certification of Independent Price Determination: GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.**

(a) By submitting a bid, the bidder certifies that—

- (1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to—
 - (i) Those prices;
 - (ii) The intention to submit a bid; or
 - (iii) The methods or factors used to calculate the prices offered.
- (2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory—

- (1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or
- (2)(i) Has been authorized, in writing, to act as agent for the bidder's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification (As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the bidder's organization responsible for determining the prices offered in this bid);
 - (ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and
 - (iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the bidder deletes or modifies paragraph (a)(2) of this certification, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

C. CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS:

- (a)(1) By submitting a bid, bidder certifies, to the best of its knowledge and belief, that-
- (i) Bidder and/or any of its Principals-
 - (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
 - (B) Have not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of bids; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
 - (C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.
 - (ii) Bidder has not, within a three-year period preceding this bid, had one or more contracts terminated for default by any public (Federal, state, or local) entity.
- (2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- (b) Bidder shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) If bidder is unable to certify the representations stated in paragraphs (a)(1), bidder must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the bidder's responsibility. Failure of the bidder to furnish additional information as requested by the Procurement Officer may render the bidder non-responsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

- D. 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 financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

- E. RESTRICTIONS APPLICABLE TO BIDDERS & GIFTS:** Violation of these restrictions may result in disqualification of your bid, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, bidder agrees not to discuss this procurement activity in any way with the Owner or its employees, agents or officials. All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, bidder agrees not to give anything to the Owner, any affiliated organizations, or the employees, agents or officials of either, prior to award. (c) bidder acknowledges that the policy of the State is that a governmental body should not accept or solicit a gift, directly or indirectly, from a donor if the governmental body has reason to believe the donor has or is seeking to obtain contractual or other business or financial relationships with the governmental body. Regulation 19-445.2165(C) broadly defines the term donor.
- F. NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING (IMPORTANT TAX NOTICE - NONRESIDENTS ONLY):** Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: www.sctax.org

This notice is for informational purposes only. This Owner does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit; Columbia, SC 29214-0140. All withholding questions should be directed to the Withholding Section at 803-898- 5383.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: <http://www.sctax.org/Forms+and+Instructions/withholding/default.htm>

- G. SUBMITTING CONFIDENTIAL INFORMATION:** For every document bidder submits in response to or with regard to this solicitation or request, bidder must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that bidder contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged & confidential, as that phrase is used in Section 11-35-410. For every document bidder submits in response to or with regard to this solicitation or request, bidder must separately mark with the words "TRADE SECRET" every page, or portion thereof, that bidder contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document bidder submits in response to or with regard to this solicitation or request, Bidder must separately mark with the word "PROTECTED" every page, or portion thereof, that bidder contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire bid as confidential, trade secret, or protected! If your bid, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation, bidder (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, & documents

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, & (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on bidder's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, bidder agrees to defend, indemnify & hold harmless the State of South Carolina, its officers & employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that bidder marked as "confidential" or "trade secret" or "PROTECTED".

H. SOLICITATION INFORMATION FROM SOURCES OTHER THAN OFFICIAL SOURCE: South Carolina Business Opportunities (SCBO) is the official state government publication for State of South Carolina solicitations. Any information on State agency solicitations obtained from any other source is unofficial and any reliance placed on such information is at the bidder's sole risk and is without recourse under the South Carolina Consolidated Procurement Code.

I. TAX CREDIT FOR SUBCONTRACTING WITH MINORITY FIRMS: Pursuant to § 12-6-3350, taxpayers, who utilize certified minority subcontractors, may take a tax credit equal to 4% of the payments they make to said subcontractors. The payments claimed must be based on work performed directly for a South Carolina state contract. The credit is limited to a maximum of fifty thousand dollars annually. The taxpayer is eligible to claim the credit for 10 consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Taxpayers must maintain evidence of work performed for a State contract by the minority subcontractor. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. The subcontractor must be certified as to the criteria of a "Minority Firm" by the Governor's Office of Small and Minority Business Assistance (OSMBA). Certificates are issued to subcontractors upon successful completion of the certification process. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. Reference: SC §11-35-5010 – Definition for Minority Subcontractor & SC §11-35-5230 (B) – Regulations for Negotiating with State Minority Firms.

J. DRUG FREE WORKPLACE: By submitting a bid, the bidder certifies that bidder will maintain a drug free workplace in accordance with the requirements of Title 44, Chapter 107 of South Carolina Code of Laws, as amended.

SECTION VIII - WITHDRAWAL OR REVISION OF BIDS PRIOR TO BID OPENING

Prior to the time and date designated for receipt of bids, a bid submitted may be withdrawn in person or by written notice to the party receiving bids at the place designated for receipt of bids. Withdrawal by written notice shall be in writing over the signature of the bidder.

SECTION IX - OPENING OF BIDS

- A. Bids received on time will be publicly opened and will be read aloud. Owner will not read aloud bids that Owner determines, at the time of opening, to be non-responsive.
- B. At bid opening, Owner will announce the date and location of the posting of the Notice of Intended Award.
- C. The Owner will send a copy of the final bid tabulation to all bidders within ten (10) working days of the bid opening.

00200-IDC

INSTRUCTIONS TO BIDDERS INDEFINITE DELIVERY CONTRACT – CONSTRUCTION

- D. If Owner determines to award contract(s), Owner will, after posting a Notice of Intended Award, send a copy of the notice to all bidders.
- E. If only one bid is received, Owner will open and consider the bid.

SECTION X - IRREGULAR BIDS

- A. The Owner shall have the right to reject any or all bids, reject a bid not accompanied by a required bid security or other data required by the bidding documents, or reject a bid that is in any way incomplete or irregular.
- B. The reasons for which the Owner will reject bids include, but are not limited to:
 - 1. Failure by a bidder to be represented at a mandatory pre-bid conference or site visit;
 - 2. Failure to deliver the bid on time;
 - 3. Failure to comply with bid security requirements, except as expressly allowed by law;
 - 4. Listing an invalid electronic Bid Bond authorization number on the bid form;
 - 5. Showing any material modification(s) or exception(s) qualifying the bid;
 - 6. Faxing a bid directly to the Owner or their representative; or
 - 7. Failure to include a properly executed Power-of-Attorney with the Bid Bond.
- C. The Owner may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or sub-line 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 Owner even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

SECTION XI - CONSIDERATION OF BIDS

- A. Failure by a bidder to correct any deficiency as requested may cause the bid to be rejected as non-responsive.
- B. The Owner shall not award a contract before the eleventh day after the Notice of Intended Award is posted. If only one bid is received and determined to be responsive and responsible, award may be made after posting the Notice of Intended Award without the ten-day waiting period.
- C. Contractor's Qualifications - A prospective Contractor shall be considered as meeting the state standards of responsibility when the firm has:
 - 1. Appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate his ability to meet all contractual requirements;
 - 2. A satisfactory record of performance;
 - 3. Satisfactory record of integrity;
 - 4. Qualified legally to contract with the State;
 - 5. Supplied all necessary information in connection with the inquiry concerning responsibility;
- D. Owner will make a determination of bidder's responsibility before awarding a contract. Bidder shall provide all information and documentation requested by the Owner to support the Owner's evaluation of responsibility. Failure of bidder to provide requested information is cause for the Owner, at its option, to determine the bidder to be non-responsive
- E. Pursuant to §11-35-1520(8), the Procurement Officer may elect to communicate with a bidder, after bid opening, for the purpose of clarifying either the bid or the requirements of the Invitation for Bids. Such communications may be conducted only with bidders who have submitted a bid which obviously conforms in all material aspects to the Invitation for Bids and only in accordance with Appendix D (Paragraph A(6)) to the *Manual for Planning and Execution of State Permanent Improvements, Part II*. Clarification of a Bid must be documented in writing and included with the bid. Clarifications may not be used to revise a bid or the Invitation for Bids. [§ 11-35-1520(8); R.19-445.2080]

SECTION XII - AWARD OF CONTRACT

- A. At the conclusion of the ten day waiting period on the eleventh day after the Notice of Intended Award is issued, the Owner will issue to the successful bidder(s) a Contract.
- B. The successful bidder(s) shall obtain, and forward to the Owner, a copy of the certificate of insurance as required by the Contract and the copies of the Contract signed by the bidder.
- C. After the Contract is fully executed work may be awarded to the successful bidder in the manner described in the Contract.

**INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION**

SECTION XIII - BONDS

- A. If required by the Invitation for Bids, each bid shall be accompanied by a bid security in an amount of not less than **five percent of the base bid**. The bid security shall be a bid bond or a certified cashier's check. The bidder pledges to enter into a Contract with the Owner on the terms stated in the bid and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.
- B. If a surety bond is required, it shall be written on AIA Document A310 Bid Bond, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney. The Bid Bond shall:
 - 1. Be issued by a surety company licensed to do business in South Carolina;
 - 2. Be issued by a surety company having, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty", which company shows a financial strength rating of at least five (5) times the contract price.
 - 3. Be enclosed in the bid envelope at the time of bid opening, either in paper copy or as an electronic bid bond authorization number provided on the Bid Form and issued by a firm or organization authorized by the surety to receive, authenticate and issue binding electronic bid bonds on behalf the surety.
- C. By submitting a Bid Bond via an electronic bid bond authorization number on the Bid Form and signing the Bid Form, the bidder certifies that an electronic bid bond has been executed by a Surety meeting the standards required by the Bidding Documents and the Bidder and Surety are firmly bound unto the State of South Carolina under the conditions provided in this Section.
- D. The Owner will have the right to retain the bid security of bidders to whom an award is being considered until either (a) the Contract has been executed and Performance and Payment Bonds, if required, have been furnished, or (b) the specified time has elapsed so that bids may be withdrawn or (c) all bids have been rejected.
- E. The Performance and Payment Bonds shall conform to the requirements of the Contract. If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid or be added to the cost of the Construction Services Delivery Order. Performance Bonds and Labor & Material Payment Bonds in the amount of 100% of the Construction Services Delivery Order amount are required for all Construction Services Delivery Orders exceeding \$50,000. The Owner may require bonds on Construction Services Delivery Orders under \$50,000.

SECTION XIV - OTHER INFORMATION

A. POSTING OF INTENT TO AWARD

Notice of Intent to Award, SE-370, will be posted at the following location:

Room or Area of Posting: Lobby

Building Where Posted: Facilities Administration Building

Address of Building: 743 Greene Street, Columbia, SC 29208

WEB site address (if applicable):

Posting date will be announced at the bid opening. In addition to posting the notice, the Owner will promptly send all responsive bidders a copy of the notice of intent to award and the final bid tabulation.

B. PROTEST OF SOLICITATION OR AWARD

Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of intent to award is posted in accordance with Title 11, Chapter 35, Section 4210 of the South Carolina Code of Laws, as amended. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the State Engineer within the time provided.

00200-IDC
INSTRUCTIONS TO BIDDERS
INDEFINITE DELIVERY CONTRACT – CONSTRUCTION

Any protest must be addressed to the CPOC, Office of State Engineer, and submitted in writing:

- (a) by email to protest-ose@mmo.sc.gov, or
- (b) by facsimile at 803-737-0639, or
- (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the e-mail address from which you sent your protest.

C. Special documents required to be submitted with the Bid for this project include:

- 1. *NONE*

END OF DOCUMENT

A310

**Bid Bond
(2010 Edition)**

**Original AIA Document on file at the office of
University of South Carolina
743 Greene Street
Columbia, South Carolina 29208**

University of South Carolina Contract for the Indefinite Delivery of Construction Services

THIS CONTRACT, made this ____ day of _____, 20____, by and between

OWNER

Board of Trustees c/o
University of South Carolina
743 Greene Street
Columbia, South Carolina 29208

CONTRACTOR

WHEREAS, the Owner requires the delivery of **Indefinite Delivery of General Contracting Services** (Type of Construction Services for this Contract) construction services on an as-needed basis, hereinafter referred to as the "Construction Services", for the following Project identified as follows:

H27-D163-CA
(State Project Number)

Indefinite Delivery of Fire Alarm Construction; and
(Project Name)

WHEREAS, the CONTRACTOR, whose FEIN/SSN is _____ and whose South Carolina Contractor's license is _____ is prepared and qualified to provide such services.

NOW THEREFORE, the Owner and Contractor agree to all of the following terms and conditions set forth in this Contract.

THE EFFECTIVE DATE of this Contract shall commence as of the date written above and the term shall be for a period not to exceed two years and will end as of _____. The term of this Contract may not be extended by amendment.

THE SERVICES REQUESTED by the Owner shall be set forth in a Request for Quotes Form for specific construction services. The Contractor agrees to accept all such requests for services issued by the Owner, unless the work requested is not within the expertise or license limitations of the Contractor; or as agreed by the Owner for just cause in the mutual interests of the Owner and Contractor.

THE SERVICES PROVIDED by the Contractor shall be set forth in the Owner's Construction Services Delivery Order which, once the Contractor's proposal is approved by the Owner, shall be incorporated into this Contract, and all work shall be performed by the Contractor in accordance with the Terms and Conditions of this Contract.

PAYMENTS TO THE CONTRACTOR for acceptable work performed shall be as follows:

THE MAXIMUM AMOUNT to be paid for all work under the terms of this agreement is: **\$1,000,000**

THE MAXIMUM DELIVERY ORDER AMOUNT to be paid for construction services is: **\$250,000**

THE CONTRACTOR'S COST PROPOSALS shall be based on the following method: (choose one)

LOW BID

Initial Contract Amount:

\$ _____

UNIT PRICES

Based on the attached Bid Form

MULTIPLIER of _____ using:

[Enter Name and Edition of the applicable cost data guide]

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE ENTERED INTO THIS CONTRACT ON THE DAY AND YEAR FIRST WRITTEN ABOVE.

OWNER

CONTRACTOR

BY: _____
(Signature of Owner's Representative)

Amy Stone
(Print or Type Name of Owner's Representative)

ITS: Secretary of Board of Trustee's
(Title of Owner's Representative)

BY: _____
(Signature of Contractor's Representative)

(Print or Type Name of Contractor's Representative)

ITS: _____
(Title of Contractor's Representative)

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

ARTICLE 1 - GENERAL

- A. The Contractor agrees to provide construction services to the Owner as required by the Owner and as set forth in a Construction Services Delivery Order that the Owner may issue from time to time during the term of this Contract.
- B. Work by the Contractor shall be performed only in response to a duly authorized Construction Services Delivery Order issued by the Owner.
- C. The maximum amount of each Construction Services Delivery Order, including modifications shall not exceed **\$250,000** per project nor shall the total amount of all Construction Services Delivery Orders, including modifications, exceed **\$1,000,000** during the term of this Contract.
- D. The duration of this Contract shall not be extended by amendment nor renewed for an additional period. Construction Services Delivery Orders authorized by the Owner within the term of the Contract may be completed by the Contractor even though the completion date may extend beyond the term of the Contract.
- E. This Contract will guarantee a minimum of work of **\$0.00** per Contract. Failure to bid or quote on Construction Services Delivery Orders as requested by the Owner will result in forfeiture of this guarantee.
- F. The Contractor covenants with the Owner to furnish its best skill and judgment and to cooperate with the Owner and any other contractors in furthering the interests of the Owner.
- G. The construction services provided pursuant to this Contract shall be performed in accordance with the applicable requirements of the Manual for Planning and Execution of State Permanent Improvements-Part II.
- H. The Contract Documents forming this agreement shall consist of the following: (1) **University of South Carolina** Contract for the Delivery of Indefinite Delivery of Construction Services and the Terms and Conditions of the **University of South Carolina** Contract for Indefinite Delivery of Construction Services (this document) and any listed attachments and supplementary conditions thereto; (2) the Bidding Documents and all Addenda thereto; (3) the Contractor's completed Bid Form **SE-330**; (4) the Contractor's individual Request for Quotes Form proposals submitted pursuant to an authorized Construction Services Delivery Order; (5) any Construction Services Delivery Orders, Form SE-680, issued under this Contract; (6) all Construction Services Delivery Order Modifications, Form SE-690; and (7) the 00200-IDC.

ARTICLE 2 – AUTHORIZATION OF SERVICES

- A. The Contractor shall not incur any expense chargeable to the Owner on or about the work of any Construction Services Delivery Order assigned to this Contract until award of the Construction Services Delivery Order has been duly authorized and fully executed by both the Owner and the Contractor.
- B. The Owner will initiate a Request for Quotes Form of work for construction services and will provide adequate project information as required.
- C. The Contractor shall prepare a proposal to complete the work as requested. The proposal will be submitted to the Owner within one (1) week of the request or as otherwise requested by the Owner in the specific request.
- D. The Contractor shall include in each proposal a schedule showing the anticipated dates for completion of various milestones of the work.
- E. The proposal shall include the cost of the construction services prepared according to the method described in the Contract. The cost portion of the proposal shall be by one of the following methods determined by the solicitation and noted on the contract (page 1 of this document):
 - a. Low Bid – The Contractor shall provide a bid on the Construction Services Request for Quotes Form to be completed for each project.
 - b. Cost Data Guide Multiplier - The Contractor shall use their bid multiplier times the unit prices contained in the cost data guide as listed on Page 1 of this Contract times the number of units for the work in the proposed Request for Quotes Form of work.
 - c. Unit Prices - The Contractor shall use the unit prices contained in their Bid of the Contract, times the number of units for the work in the proposed Request for Quotes Form of work.
 - d. Note: Should unit prices or cost data guide line items not be available for items of work to be included in the Construction Services Request for Quotes Form, the Contractor shall prepare a proposal including labor and material cost breakdown with overhead and profit added as follows for that portion of the work not covered by either the unit prices or cost data guide:
 - 1. For the Contractor or subcontractor on work performed by their own forces, 13% of the actual costs.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

2. For the Contractor on work performed by its subcontractors, 10% of the subcontractor's actual costs (not including the subcontractor's overhead and profit).
- e. Nothing in this Contract prohibits a Contractor from submitting a price lower than that which would be established using their initial cost data guide multiplier or unit prices.
- F. The Owner, upon receipt will review the Contractor's proposal in a timely manner and accept or reject it. Except for delivery orders based on competitive bidding, prior to approving a Construction Services Delivery Order, the Owner reserves the right to negotiate with the Contractor to revise the scope of the proposed construction services and costs that are believed to be in the best interest of the State. For delivery orders based on competitive bidding, the Owner must allow all bidders the opportunity to revise their proposals for significant changes in the scope of work.
- G. Upon acceptance of a proposal the Owner will issue a Construction Services Delivery Order toward this Contract.
- H. If the Contractor fails to provide a cost proposal within the required time limit, or otherwise provides a response that the Owner deems, in its sole discretion, to be unacceptable, the Owner may withdraw the request and use an alternative contractor or alternative method of procurement to provide the construction services.
- I. The Owner's approval of a Construction Services Delivery Order shall be the Contractor's Notice to Proceed with the work. The time limits stated in the Construction Services Delivery Order are of the essence. By executing the Construction Services Delivery Order, the Contractor confirms that the performance dates in the Construction Services Delivery Order constitutes a reasonable period for performing the work.

ARTICLE 3 - CONTRACTOR'S RESPONSIBILITIES

- A. The Contractor shall designate one or more representatives to be assigned for the duration of the project. These representatives shall be authorized to act on behalf of the Contractor in all matters related to the Contractor's performance under this Contract. The Contractor shall not replace a designated representative except for good cause shown and with approval of the Owner.
- B. The Contractor warrants to the Owner that:
 1. It and its subcontractor(s) (if any) are financially able to complete the work.
 2. It will perform all obligations, furnish all material, equipment, tools, transportation, supplies and labor to complete the work assigned.
 3. It is authorized and properly licensed to do business in the State of South Carolina and the local jurisdiction in the area of the work site.
 4. It is duly authorized to execute the Contract and accept Construction Services Delivery Orders.
 5. It possesses a high level of experience and expertise in the business administration, construction, management, and supervision of projects that may be assigned to this Contract, and will perform the work with care and diligence in a professional and workmanlike manner.
- C. The Contractor shall have, at the time of execution of this Contract, all professional and business insurance, licenses and permits legally required to provide the required construction services in the State of South Carolina and as required by this Contract.
- D. The Contractor shall perform construction services as required by any Construction Services Delivery Order signed by both parties.
 1. The Contractor shall pay for required business license fees, labor, materials, equipment, tools, transportation, supervision, testing, etc., as required for the performance of the work or as specified in approved Construction Services Delivery Order.
 2. The Contractor shall visit the site and take measurements, observations, tests or otherwise obtain information to assist in familiarization with the work site, its conditions and limitations that would affect the performance of the work.
 3. The Contractor shall review the documents furnished with the Owner's Construction Services Delivery Order to become familiar with the requirements of the project and understand the scope of work required. The Contractor shall have the right to rely on information contained in the proposal documents. Such reliance requires that the Contractor shall review all information provided by the Owner, including that available by visiting the site, exercising care, skill and diligence of a contractor experienced in the work required, and shall give prompt and timely notice to the Owner of any apparent deficiencies or inconsistencies in the information furnished by the Owner or the A/E.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

4. In the event of inconsistencies within or between parts of the Construction Services Delivery Order or between the Construction Services Delivery Order and applicable standards, codes, and ordinances, the Contractor shall: (1) provide the better quality or greater quantity of work; or, (2) comply with the more stringent requirement; either or both in accordance with the A/E's interpretation.
- E. The Contractor does not have the responsibility to determine that the design of the project is in conformance with applicable building codes and regulations, but if during the review of the Construction Services Delivery Order, it is found that any apparent violations exist, it is the Contractor's responsibility to inform the A/E and the Owner of such apparent violation.
- F. The Contractor is responsible for construction means, methods, techniques, procedures and safety measures in the performance of the work.
- G. The Owner shall obtain, at its own cost, general building and specialty inspection services and material testing as required by the Contract Documents. The Contractor shall coordinate and call for inspections or material testing as needed during the construction process. The Contractor shall be responsible for payment of any charges imposed for re-inspections or re-testing due to failed inspections or tests.
- H. The Contractor shall employ only persons skilled in the work for which they are to do, employ an experienced superintendent to supervise the work, and shall be responsible for the acts or omissions of the Contractor's agents and employees or those of subcontractors and their agents and employees acting on behalf of the Contractor.
- I. The Contractor shall cooperate with and coordinate its work with the work of others.
- J. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect, including but not limited to providing necessary resources, with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate change directive shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 4 -OWNER'S RESPONSIBILITIES

- A. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. The Architect does not have such authority. The term "Owner" means the Owner or the Owner's Representative.
- B. The Owner does not warrant the accuracy of any information requested by the Contractor that is not otherwise required of the Owner by the Contract Documents. Neither the Owner nor the Architect shall be required to conduct investigations or to furnish the Contractor with any information concerning characteristics or other conditions of the area where the work is to be performed beyond that which is provided for in the Contract Documents.
- C. The Owner assumes no responsibility for any conclusions or interpretation made by the Contractor based on information made available by the Owner.
- D. The Owner shall designate one or more representatives with authority to act and make binding decisions on the Owner's behalf in all matters related to the Owner's duties under this Contract.
- E. The Owner shall secure and pay for all design permits, assessments, and easements except as required by any Construction Services Delivery Order issued under the terms of the Contract.
- F. The Owner shall obtain, at its own cost, general building, specialty inspection services and material testing as required by the Contract Documents.
- G. The Owner shall make timely decisions on all issues related to the Construction Services Delivery Order and shall promptly advise the Contractor of any errors or deficiencies in the Contractor's performance under this Contract.
- H. The Owner shall pay the Contractor for acceptable work performed, in accordance with the provisions of this Contract.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

ARTICLE 5 – A/E’S RESPONSIBILITIES

- A. The term "Architect," "Architect/Engineer," or "A/E" is the entity named as such in the Request for Quotes Form. The Architect or A/E may be the Owner, if so designated. In the absence of a licensed design professional, these terms mean the Owner.
- B. The A/E and the A/E’s consultants shall be deemed the authors and owners of their respective Instruments of Service and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as a violation of the A/E’s or A/E’s consultants’ reserved rights.
- C. The A/E shall represent the Owner during the construction process through final completion of the project, and as requested during the warranty period. The A/E will act on behalf of the Owner only to the extent provided in the Construction Services Delivery Order or otherwise agreed by the Owner.
- D. The A/E, as a representative of the Owner, shall visit the site as necessary to fulfill its obligations to the Owner for inspection services, if any, and, at a minimum, to assure conformance with the A/E’s design as shown in the Construction Services Delivery Order and to observe the progress and quality of the various components of the Contractor’s work. The A/E shall (1) keep the Owner informed about the progress and quality of the work completed, (2) endeavor to guard the Owner against defects and deficiencies in the work, and (3) determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the Construction Services Delivery Order.
- E. The A/E will make recommendations to the Owner as to acceptance or rejection of the work and communicate the Owner’s decision to the Contractor.
- F. The A/E will review and approve or reject shop drawings and samples submitted by the Contractor.
- G. The A/E shall respond promptly to all requests for information or clarification from the Owner or the Contractor.
- H. The A/E will make the initial interpretation and decision on matters concerning performance under, and requirements of, a Construction Services Delivery Order on written request of either the Owner or Contractor. Upon receipt of such request, the A/E shall promptly notify the non-requesting party in writing of the details of such request. The A/E’s response to such requests will be made writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the A/E shall be furnished, then delay shall not be recognized on account of failure by the A/E to furnish such interpretations until fourteen (14) days after written request is made for them. The interpretation or decision of the A/E shall be final, subject to the dispute resolution provisions of this Contract.
- I. The A/E will not be responsible for construction means, methods, techniques, procedures and safety measures in the performance of the work nor acts or omissions of the Contractor, Subcontractors or any other entity performing work on the site.
- J. The A/E will review periodic requests for payment, and approve or reject the request, in whole or in part.
- K. The A/E will prepare Construction Services Delivery Order Modifications or change directives as directed by the Owner.
- L. Any reference in the Contract Documents to the A/E taking action or rendering a decision within a “reasonable time” or “timely manner” is understood to mean no more than fourteen (14) days, unless otherwise specified in the Contract Documents or otherwise agreed to by the parties.

ARTICLE 6 - CONSTRUCTION ADMINISTRATION

- A. Shop Drawings and Samples:
 - 1. The Contractor shall submit Shop Drawings as required by the Construction Services Delivery Order, consisting of drawings, diagrams, illustrations, schedules, brochures, and other data which are prepared by the Contractor, subcontractor, manufacturer, supplier, or distributor and that depict that portion of the work.
 - 2. The Contractor shall review and approve Shop Drawings prior to their submission to the A/E. Such review shall be for compliance with the requirements of the Construction Services Delivery Order and to ensure complete coordination of the work. Shop Drawings approved by the Contractor shall bear a stamp denoting that they have been reviewed and are "approved" or "approved as noted" or similar designation.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

3. The Contractor shall submit the number of sets as specified in the Construction Services Delivery Order, or in the absence of a specification, submit enough copies for the Owner to retain two copies plus the number desired to be returned to the Contractor.
 4. The A/E will review the Shop Drawings with reasonable promptness but only for conformity with the design and performance requirements as indicated in the Construction Services Delivery Order.
 5. The Contractor shall submit samples as required by the Construction Services Delivery Order, consisting of physical examples furnished by the Contractor of sufficient size and quantity to provide an acceptable representation of the material proposed to be installed. Samples submitted will not be returned unless requested by Contractor and agreed to by the A/E. The Contractor shall pay shipping costs. The final installed product shall match the approved sample.
- B. Materials and Workmanship:
1. The Contractor shall not allow the use of any asbestos containing product, whether temporary or permanent and whether or not incorporated or to be incorporated in the work, even if the products are non-friable and/or contain minimal amounts of asbestos, and even though such products may still be legally installed.
 2. The Contractor shall not use or allow the use of lead materials in public water applications. Lead free solder, flux and pipe must be used in all public drinking water and waste water applications. Lead free solder and flux is defined as containing less than 0.2% lead while valves, pipes and appurtenances must contain less than 8.0% lead.
 3. The Contractor warrants that unless otherwise specified or permitted by the Construction Services Delivery Order, all materials shall be new, in first class condition, and installed using workmanship of the highest quality in accordance with the Construction Services Delivery Order.
 4. Work, materials, or equipment not conforming to these requirements shall be considered defective. Unless caused by the Contractor or a subcontractor at any tier, the Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.
 5. The Contractor accepts assignment of all materials and equipment by the Owner that are identified as part of the Contract Documents. The Contractor shall, upon delivery, be responsible for the storage, protection, proper installation, and preservation of such Owner purchased items, if any, as if the Contractor were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with the storage, insurance, installation, and testing of items. Unless the Contract Documents specifically provide otherwise, all Contractor warranty of workmanship and correction of the work obligations under the Contract Documents shall apply to the Contractor's installation of and modifications to any Owner purchased items,.
- C. Inspection and Testing of Materials:
1. The Owner shall have performed and documented all inspections and tests required by the Construction Services Delivery Order.
 2. The Contractor shall leave uncovered all areas of work that will be covered that are called out in the Construction Services Delivery Order to be left uncovered, or the A/E requests to be left uncovered prior to being inspected. The Contractor shall give adequate notice to the A/E of the time requested for an inspection of areas to be covered.
 3. If the Contractor covers areas that were to be left uncovered, or otherwise fails to have performed the required inspections and tests, the Contractor shall cause the area to be uncovered for inspection and testing. After being inspected, the Contractor shall repair the area with craftsmen skilled in the appropriate trades needed for the repair at no additional cost to the Owner.
- D. Substitutions:
1. The Contractor's requests for substitutions shall be submitted and negotiated prior to the execution of each Construction Services Delivery Order.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

2. Wherever the Construction Services Delivery Order specifies a particular product, article, appliance, equipment, or material and it is designated by manufacturer and model number, it is the intent to designate a level of quality, finish, appearance, function, or other factor that was desirable to have incorporated into the design. It is not intended to limit competition. Other manufacturer's listed as "approved equal" may be used, but the products by that manufacturer must meet or exceed the specification for the specified product. The Contractor must submit adequate information about the product to show that the submitted product meets the level of quality as the product specified.
 3. If the Contractor desires to substitute a product for one that is not readily available due to extenuating circumstances, a request may be submitted for review to the A/E. Along with the product information submittal, the Contractor shall list the reason(s) for requesting the substitution, and the benefit to the State for accepting substituted product. The A/E's decision on the request is final.
 4. The Contractor shall not substitute any product, article, appliance, equipment, or material that is specified without prior written approval from the A/E, which shall be granted only with the concurrence of the Owner.
- E. Changes in the Work:
1. The Owner may authorize changes in the scope of a Construction Services Delivery Order without invalidating the Construction Services Delivery Order or this Contract by issuing a Construction Services Delivery Order Modification (Form SE-690) and the Contractor shall execute the changed work promptly.
 2. Any changes in the work must be approved by the Owner and executed by Form SE-690 signed by the Contractor and A/E.
 3. The cost of any Construction Services Delivery Order Modification shall be calculated using the same method as pricing the Construction Services Delivery Order.
 4. In the absence of a total agreement concerning the item(s) for a Construction Services Delivery Order Modification, a change directive shall be issued and the Contractor shall proceed diligently with performance of the Construction Services Delivery Order.
- F. Receiving and Storing Materials and Equipment:
1. The Contractor shall have an authorized person or persons to receive all items and shall properly unload, check for completeness of shipment, and in-transit damage.
 2. The Contractor shall properly handle and store materials, supplies, equipment etc. in accordance with the Construction Services Delivery Order or manufacturers printed instructions for each product.
 3. Protection of construction materials and equipment stored at the project site from weather, theft, vandalism, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall perform the work in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the work and all adjacent areas. The work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.
- G. Schedule and Reports
1. At the time of approval of the Construction Services Delivery Order by the Owner, the Contractor shall present a construction schedule in a form satisfactory to the A/E. The schedule shall identify important tasks and identify the critical path.
 2. The Contractor shall submit an up-dated progress schedule with each monthly request for payment showing scheduled dates and actual completion dates. If the work falls behind schedule, the Contractor shall present a plan for completion of the work by the time for completion.
- H. Time for Completion:
1. The Time for Completion will be identified in each Construction Services Delivery Order, and will be the amount of time agreed to by the Owner and the contractor as: required for completion of the work of that Construction Services Delivery Order.
 2. Requests for any extension of time shall be made monthly with the application for payment. Delays of the work due to circumstances beyond the control of the contractor shall be adequately documented and submitted to the Owner with any request for an extension of the Time for Completion.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

3. The time for completion shown in the Construction Services Delivery Order shall include five (5) calendar days for delays due to inclement weather per calendar month. Delays due to weather beyond the five (5) days may be requested as a time extension to the time for completion. The Contractor shall submit job site weather data supporting the claim for an extension of time;
 4. The A/E will promptly review each request for time extension. The A/E shall make a recommendation and the Owner shall approve or reject the request, and so inform the Contractor. Changes in Contract Time shall be documented on Form SE-690.
 5. Should completion of the Construction Services Delivery Order extend past the original or amended Construction Services Delivery Order completion date, the Owner will calculate liquidated damages in the amount listed in the Construction Services Delivery Order and reduce the Contractor's final payment by that amount.
- I. Guarantee:
1. The Contractor shall remedy and make well all defects in material and workmanship at no additional cost to the Owner and pay for any damage to other work or property resulting from such defects for a period of one year from the date of Substantial Completion excepting defects that are due to misuse or abuse by the Owner.
 2. The issuance of a Certificate of Substantial Completion, **SE-550**, does not relieve the Contractor from liability for defective workmanship or materials.
 3. Where guarantees and/or warranties are required in the technical sections of the specifications, or as noted on the drawings, exceeding the one-year guarantee period, the extended warranty period will govern.
 4. Nothing contained in this Article shall be construed to establish a period of limitation with respect to other obligations the Contractor might have under the Contract Documents.
- J. Use of the Site:
1. The Contractor shall confine its operations to areas permitted by laws and ordinances, and as defined in the Construction Services Delivery Order. The site must be maintained in a reasonably clean condition, free of trash and debris. The Contractor shall, on a regular basis, remove from the site all trash, debris, tools and equipment no longer needed for the work.
 2. The Contractor shall provide access to the work in progress for representatives of the Owner, A/E and for all authorities having jurisdiction over the work.

ARTICLE 7 - PAYMENTS

- A. Payments by the Owner to the Contractor for acceptable work performed shall be made in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.
- B. Payments by the Contractor to Subcontractors for acceptable work performed shall be made in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.
- C. Payments by the Contractor and Subcontractors to laborers and others shall be made in accordance with Title 29, Chapter 7 of the SC Code of Laws, as amended.
- D. The Contractor shall comply with the requirements of Title 12, Chapter 9 of the South Carolina Code of Laws, as amended, regarding withholding tax for nonresidents, employees, contractors and subcontractors.
- E. If the Contractor intends to request progress payments, the Contractor shall submit to the A/E for its approval, a schedule of values showing the cost breakdown of the various divisions of work. The divisions of work shall be formatted using Construction Specifications Institute (CSI) format or a format agreed to by the A/E. The total of the schedule of values shall be the amount of the Construction Services Delivery Order and any modifications.
- F. Any schedule of values that fails to include sufficient detail, is unbalanced, or exhibits "front-loading" of the value of the work shall be rejected.
- G. The Contractor shall submit all applications for payment to the A/E. The A/E shall review the application to determine the amount due the Contractor, based on the approved schedule of values for the work listed in the application for payment and acceptably performed, and forward its certification to the Owner within seven days of receipt.
- H. Applications for payment may include materials suitably stored on site for use in the work. Materials stored off site may be approved for payment providing the Contractor submits:
 1. Documentation showing the location of the material;
 2. Proof of purchase & delivery;
 3. Certificate of insurance for the material with adequate coverage showing the Owner as the certificate holder;

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

4. The material is stored in a bonded warehouse, segregated and posted with a sign designating ownership by the Owner.
- I. The Owner shall retain funds from the applications for payment in the amount of 3.5% of the total requested. Retained funds shall be held until final completion of the Construction Services Delivery Order.
- J. When the Contractor has fully performed the work of the Construction Services Delivery Order and has been granted a Certificate of Final Completion, **SE-560**, the Contractor may submit its application for final payment and release of retained funds to the A/E. The request shall be accompanied by the Consent of Surety to Final Payment (for bonded Construction Services Delivery Orders), and Releases of Liens from all sub-contractors (if any). If the work is completed to the satisfaction of the A/E, the A/E shall certify the application and the Owner shall make final payment.

ARTICLE 8 – CLAIMS & DISPUTE RESOLUTION

- A. Each party may assert a Claim requesting an adjustment of the Contract or Construction Services Delivery Order terms, an adjustment in the Construction Services Delivery Order sum, a change in the Construction Services Delivery Order time for completion, or other relief with respect to the terms of the Contract or Construction Services Delivery Order.
- B. Claims under this Contract shall be submitted in writing. A voucher, invoice, payment application or other routine request for payment that is not in dispute when submitted is not a Claim under this definition. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- C. Claims arising prior to the date final payment is due must be initiated within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. By failing to give written notice of a Claim within the time required by this paragraph, a party expressly waives its claim.
- D. Pending a resolution of the Claim, including any dispute resolution under this Contract, the Contractor shall proceed to perform as required by the Construction Services Delivery Order and the Owner shall continue to make payments in accordance with this Contract.
- E. The Contractor consents to be governed by § 11-35-4230 of the SC Code of Laws, as amended, and agrees that § 11-35-4230 applies to and governs the Contract. The Contractor waives any objection it may have now or hereafter to the administrative process required by § 11-35-4230. To the extent that § 11-35-4230, by its own terms, does not govern a claim or controversy arising out of or relating to the Contract, the Contractor agrees that any suit, action or proceeding arising out of or relating to the Contract shall be instituted and maintained only in a State or Federal court located in the County in which the Owner maintains its principle place of business, in the State of the South Carolina Budget & Control Board.
- F. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any claims or controversies relating to the Contract; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided for the Contractor's Senior Representative or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States Postal Service.
- G. Notwithstanding any other provision of the Contract Documents, but subject to a duty of good faith and fair dealing, the Contractor and Owner waive Claims against each other for listed damages arising out of or relating to this Contract. For the Owner, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) costs suffered by a third party unable to commence work, (vi) attorney's fees, (vii) any interest, except to the extent allowed by law (viii) lost revenue and profit for lost use of the property, (ix) costs resulting from lost productivity or efficiency. For the Contractor, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) attorney's fees, (vi) any interest, except to the extent allowed by law; (vii) unamortized equipment costs; and, (viii) losses incurred by subcontractors for the types of damages the Contractor has waive as against the Owner. Without limitation, this mutual waiver is applicable to all damages due to either party's

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

termination in accordance with Articles 9 or 10. Nothing contained in this Section shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

- H. Notwithstanding any other provision of the Contract Documents, but subject to a duty of good faith and fair dealing, the Contractor waives all claims against the Architect and any other design professionals who provide design and/or project management services to the Owner, either directly or as independent contractors or subcontractors to the Architect, for listed damages arising out of or relating to this Contract. The listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) attorney's fees, (vi) any interest; (vii) unamortized equipment costs; and, (viii) losses incurred by subcontractors for the types of damages the Contractor has waive as against the Owner.
- I. DUTY OF COOPERATION:
1. Contractor and Owner are fully committed to working with each other throughout the Project to avoid or minimize claims. To further this goal, Contractor and Owner agree to communicate regularly with each other at all times notifying one another as soon as reasonably possible of any issue that if not addressed may cause loss, delay, and/or disruption of the work. If claims do arise, Contractor and Owner each commit to resolving such claims in an amicable, professional, and expeditious manner to avoid unnecessary losses, delays, and disruptions to the work.
 2. In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.
- J. RESOLUTION OF DISPUTES:
1. If a claim is not resolved pursuant to Section I above to the satisfaction of either party, both parties shall attempt to resolve the dispute at the field level through discussions between Contractor's Representative and Owner's Representative. If a dispute cannot be resolved through Contractor's Representative and Owner's Representative, then the Contractor's Senior Representative and the Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than twenty-one days after such a request is made, to attempt to resolve such dispute. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute. The meetings required by this Section are a condition precedent to resolution pursuant to Section J 2.
 2. If after meeting in accordance with the provisions of this Section, the Senior Representatives determine that the dispute cannot be resolved on terms satisfactory to both the Contractor and the Owner, then either party may submit the dispute by written request to South Carolina's Chief Procurement Officer for Construction (CPOC). Except as otherwise provided in this Article, all claims or controversies relating to the Contract shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the State regarding the Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United State's Constitution.
 3. If any party seeks resolution to a dispute pursuant to Section J 2 above, the parties shall participate in non-binding mediation to resolve the claim. If the claim is governed by Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws as amended and the amount in controversy is \$100,000.00 or less, the CPOC shall appoint a mediator, otherwise, the mediation shall be conducted by an impartial mediator selected by mutual agreement of the parties, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

4. Without relieving any party from the other requirements of this Article, either party may initiate proceedings in the appropriate forum prior to initiating or completing the procedures required by Sections I above and J 1 if such action is necessary to preserve a claim by avoiding the application of any applicable statutory period of limitation or repose.
- K. The Contractor agrees that any act by the Owner regarding the Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the phrase "the State" includes any governmental entity transacting business with the Contractor pursuant to the Contract and the South Carolina Budget & Control Board.

ARTICLE 9 - SUSPENSION OR TERMINATION BY OWNER

- A. The Owner may direct the Contractor to suspend the Contractor's performance, in whole or in part, with or without cause, for such period as determined by the Owner at any time and without prior notice to the Contractor.
- B. The Construction Services Delivery Order Sum will be adjusted for increases in cost to the Contractor due to the delay or interruption except that no increase will be granted for delays or interruptions that are, or would have been, the responsibility of the Contractor, or an equitable adjustment is covered under other provisions of the contract.
- C. The Owner may terminate this Contract or any Construction Services Delivery Order under this Contract, in whole or in part, for the convenience of the State with not less than seven (7) days written notice to the Contractor. The Contractor shall be paid for all services acceptably performed up to the date of termination, costs incurred by reason of such termination, and any other adjustments otherwise allowed by the Contract.
 1. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not: (i) affect the Owner's right to require the termination of a subcontract, or; (ii) increase the obligation of the Owner beyond what it would have been if the subcontract had contained an appropriate clause.
 2. Upon written consent of the Contractor, the Owner may reinstate the terminated portion of this Contract in whole or in part by amending the notice of termination if it has been determined that: (i) the termination was due to withdrawal of funding by the General Assembly, Governor, or Budget and Control Board or the need to divert project funds to respond to an emergency as defined by Regulation 19-445.2110(B) of the South Carolina Code of Regulations, as amended; (ii) funding for the reinstated portion of the work has been restored; (iii) circumstances clearly indicate a requirement for the terminated work; and (iv) reinstatement of the terminated work is advantageous to the Owner.
- D. The Owner may terminate the Contract if the Contractor:
 1. repeatedly refuses or fails to supply enough properly skilled workers or proper materials, or otherwise fails to prosecute the Work, or any separable part of the Work, with the diligence, resources and skill that will ensure its completion within the time specified in the Contract Documents, including any authorized adjustments;
 2. fails to make payment to Subcontractors for materials or labor in accordance with the Contract Documents and the respective agreements between the Contractor and the Subcontractors;
 3. repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
 4. otherwise is guilty of substantial breach of a provision of the Contract Documents;
 5. fails to commence the work of an approved Construction Services Delivery Order within seven (7) days of receipt of, or as stated on, the approved Construction Services Delivery Order.
- E. If either party fails to substantially perform according to the terms of this Contract, the other party may terminate this Contract upon not less than seven (7) days written notice. The notice of termination shall set forth with specificity the grounds for termination and may, at the sole option of the terminating party, include a stated period of time in which it may cure the alleged breach.
- F. If, after termination for cause, it is determined that the Owner lacked justification to terminate, or that the Contractor's default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

ARTICLE 10 - SUSPENSION OR TERMINATION BY CONTRACTOR

- A. The Contractor may suspend its performance under this Contract if the A/E has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents. Prior to the suspension of performance, the Contractor shall give written notice to the Owner, and shall allow the Owner no fewer than twenty-one (21) calendar days to make payment, otherwise the suspension may take effect without further notice by the Contractor.
- B. The Contractor may terminate the Contract, or Construction Services Delivery Order, upon seven (7) days' written notice to the Owner, if work is stopped through no fault of the Contractor, or other persons performing work either directly or indirectly for the Contractor, for a period of time exceeding forty five (45) consecutive calendar days due to a court order or other public authority having jurisdiction; or a National emergency which requires the work to be stopped.

ARTICLE 11 – PROTECTION OF PERSONS AND PROPERTY

- A. The Contractor is responsible for jobsite safety for the protection of persons and property. The Contractor shall comply with all applicable laws, rules and regulations regarding safety including but not limited to Occupational Safety and Health Standards published by Occupational Safety and Health Administration; and U.S. Department of Labor publications or other jurisdictions having authority over the work.
- B. For the duration of the project, the Contractor is to provide and maintain safety equipment as required for the protection of persons and property including but not limited to warning signs; lights; signal devices; barricades; guard rails; fences; and other devices intended for the safety of persons and protection of property.
- C. If during execution of the work, the Contractor encounters material believed to be hazardous, including but not limited to: lead, asbestos or polychlorinated biphenyl (PCB), and that the Contractor has reasonable cause to believe creates a danger of bodily injury or death to persons, or serious losses to real or personal property, then the Contractor shall immediately stop work in the affected area and report the conditions to the Owner and the A/E in writing. Except by written agreement of the Owner and Contractor the Contractor shall not resume work until the hazardous material has been rendered harmless.
- D. The Owner and Contractor hereby agree that this Article shall apply only to hazardous, toxic or radioactive materials or substances subject to the regulations of agencies having jurisdiction, such as, but not limited to, the S C. Department of Health and Environmental Control (SCDHEC), the U.S. Environmental Protection Agency (USEPA) and the U.S. Nuclear Regulatory Commission (USNRC).
- E. Work in the affected area shall be resumed immediately following the occurrence of any of the following events;
 - (1) the Owner causes remedial work to be performed that results in the absence of materials or substances; or
 - (2) the Owner and the Contractor, by written agreement, decide to resume performance of the work; or
 - (3) the work may safely and lawfully proceed, as determined by an appropriate governmental authority or as evidenced by a written report to both the Owner and the Contractor, which is prepared by an environmental engineer reasonably satisfactory to both the Owner and the Contractor.
- F. For the purposes of this Contract, the term "rendered harmless" shall be interpreted to mean that measured levels of verified hazardous, toxic or radioactive materials or substances are less than the applicable standards established by authorities having jurisdiction. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible, unless such materials or substances were expressly required by the Construction Services Delivery Order. The Contractor agrees not to use any fill or other materials to be incorporated into the work that are hazardous, toxic, or radioactive, or made up of any items that are hazardous, toxic, or radioactive.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

ARTICLE 12 - INSURANCE AND BONDS

- A. The Contractor shall purchase and maintain insurance to protect against claims that may arise out of the Contractor's operations under the work of this Contract. The limits shall be for not less than the limits set forth in this Article, shall be written on an occurrence basis and shall be in force for the duration of the Contract.
- B. The insurance required by this Article shall be written for not less than limits of liability specified below or required by law, whichever coverage is greater. Coverages shall be written on an occurrence basis and shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

(1) COMMERCIAL GENERAL LIABILITY:

(a)	General Aggregate (per project)	\$1,000,000
(b)	Products/Completed Operations	\$1,000,000
(c)	Personal and Advertising Injury	\$1,000,000
(d)	Each Occurrence	\$1,000,000
(e)	Fire Damage (Any one fire)	\$50,000
(f)	Medical Expense (Any one person)	\$5,000

(2) BUSINESS AUTO LIABILITY (including All Owned, Non-owned, and Hired Vehicles):

(a)	Combined Single Limit	\$1,000,000
-----	-----------------------	-------------

(3) WORKER'S COMPENSATION:

(a)	State Statutory	
(b)	Employers Liability	\$100,000 Per Accident \$500,000 Disease, Policy Limit \$100,000 Disease, Each Employee

In lieu of separate insurance policies for Commercial General Liability, Business Auto Liability, and Employers Liability, the Contractor may provide an umbrella policy meeting or exceeding all coverage requirements set forth in this Article. The umbrella policy limits shall not be less than \$3,000,000.

- C. Prior to commencement of the Work, and thereafter upon replacement of each required policy of insurance, Contractor shall provide to the Owner a written endorsement to the Contractor's general liability insurance policy that:
1. names the Owner as an additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations;
 2. provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless all additional insureds have been given at least ten (10) days prior written notice of cancellation for non-payment of premiums and thirty (30) days prior written notice of cancellation for any other reason; and
 3. provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the Owner as secondary and noncontributory.
- D. Prior to commencement of the Work, and thereafter upon renewal or replacement of each required policy of insurance, Contractor shall provide to the Owner a signed, original certificate of liability insurance (ACORD 25). Consistent with this Article, the certificate shall identify the types of insurance, state the limits of liability for each type of coverage, name the Owner and Consultants as Certificate Holder, provide that the general aggregate limit applies per project, and provide that coverage is written on an occurrence basis. Both the certificates and the endorsements must be received directly from either the Contractor's insurance agent or the insurance company. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, naming the Owner as an additional insured for claims made under the Contractor's completed operations, and otherwise meeting the above requirements, shall be submitted with the final application for payment and thereafter upon renewal or replacement of

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

- such coverage until the expiration of the time required by this Article. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.
- E. A failure by the Owner either (i) to demand a certificate of insurance or written endorsement required by this Article or (ii) to reject a certificate or endorsement on the grounds that it fails to comply with this Article shall not be considered a waiver of Contractor's obligations to obtain the required insurance.
- F. LOSS OF USE INSURANCE: The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. To the extent any losses are covered and paid for by such insurance, the Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.
- G. If the Owner requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall be charged to the Owner by appropriate Construction Services Delivery Order Modification.
- H. Before an exposure to loss may occur, the Contractor shall file with the Owner a copy of each policy that includes insurance coverages required by this Article. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to a Construction Services Delivery Order. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Owner.
- I. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 14, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent the property insurance provided by the Contractor pursuant to this Article covers and pays for the damage, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary.
- J. A loss insured under the Contractor's property insurance shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Article 12 O.
- K. If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor.
- L. The Contractor as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Contractor's exercise of this power; if such objection is made, the dispute shall be resolved in the manner provided in the contract between the parties in dispute as the method of binding dispute resolution. The Contractor as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with a final order or determination issued by the appropriate authority having jurisdiction over the dispute.
- M. Before commencing any services hereunder, the Contractor shall provide the Owner with Performance and Payment Bonds, if required, each in an amount not less than the Delivery Order Cost as set forth in the Construction Services Delivery Order. The Surety shall have, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty". In addition, the Surety shall have a minimum "Best Financial Strength Category" of "Class V", and in no case less than five (5) times the contract amount. The Performance Bond shall be written on Form SE-355, "Performance Bond" and the Payment Bond shall be written on Form SE-357, "Labor and Material Payment Bond", and both shall be made payable to the Owner.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

- N. The Performance and Labor and Material Payment Bonds shall:
1. Be issued by a surety company licensed to do business in South Carolina;
 2. Be accompanied by a current Power of Attorney and certified by the attorney-in-fact who executes the bond on the behalf of the surety company; and
 3. Remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete work and the payment of any disputed amounts, whichever time period is longer.
 4. Separate Bonds shall be provided for each separate Construction Services Delivery Order and shall be provided for all Construction Services Delivery Orders exceeding \$50,000 and for lesser amounts as requested by the Owner. The Contractor shall provide Performance and Labor and Material Payment Bonds in the amount of 100% of the amount of the Construction Services Delivery Order for each project to be done under the terms of this Contract.
 5. Notwithstanding the foregoing, any bonds required by this Contract shall meet the requirements of the SC Code of Laws, as amended.
- O. The Contractor shall keep the Surety informed of the progress of the work and, where necessary, obtain the Surety's consent to, or waiver of:
1. notice of changes in the work;
 2. request for reduction or release of retention;
 3. request for final payment; and
 4. any other item required by the Surety.
- P. The Owner may, in the Owner's sole discretion, inform the Surety of the progress of the work and obtain consents as necessary to protect the Owner's rights, interest, privileges, and benefits under and pursuant to any bond issued in connection with the work.

ARTICLE 13 - CORRECTION OF WORK

- A. The Contractor shall promptly and with due diligence, correct work rejected by the A/E or the Owner for failure to conform to the requirements of the Construction Services Delivery Order, whether such defective work is observed before or after Final Completion. The Contractor shall pay for correcting the deficient work including additional testing and inspections and any compensation for A/E services and expenses involved.
- B. If the Contractor fails to carry out the work in accordance with the contract documents, and fails within a seven (7) day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies they may have, proceed to correct such deficiencies. In such case an appropriate change directive shall be issued deducting from payments to the Contractor the reasonable cost of correcting such deficiencies including the Owner's expenses and compensation to the A/E if necessary. In the event the deficiency is significant, and could pose a danger or create additional expense if not corrected immediately, the A/E may issue a written order to stop work on the project or portion thereof until the reason for the stoppage has been remedied.
- C. The Contractor and the Surety remain liable for any excess cost or damages resulting from actions, set forth in this Article.
- D. If the A/E so chooses, work that is not in conformance with the Construction Services Delivery Order may be accepted in lieu of the contractor removing and correcting the deficient work. Such acceptance of deficient work shall not include work that is in violation of any code requirements. An appropriate adjustment, as recommended by the A/E and agreeable to the Owner, shall be made to the Construction Services Delivery Order Cost. Such modification to the Construction Services Delivery Order Cost shall be made by change directive.

ARTICLE 14 - CONSTRUCTION BY OWNER

- A. The Owner reserves the right to perform work with its own forces or award separate contracts for work on the same project as may be awarded by Construction Services Delivery Order under this Contract.
- B. The Contractor agrees to allow access to the site by the Owner's work force or separate contractor(s), and agrees to assist in coordinating the progress of the work with the Owner.
- C. The Owner shall have the responsibility to coordinate the activities of the various contractors working at the project location.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

ARTICLE 15 – SUBCONTRACTORS

If the Contractor engages subcontractors to provide work on a Construction Services Delivery Order, then the Contractor shall include, or cause to be included, in the agreement with those entities, all provisions contained in this Contract and the Construction Services Delivery Order. Sub-contractors and Sub-subcontractors shall be bound by the same provisions as the Contractor and shall preserve and protect the rights of the Owner.

ARTICLE 16 - COMPLETION AND CLOSEOUT

- A. The Contractor shall have completed the unfinished and defective work listed in the "punch list" and notify the A/E of its completion. The A/E will schedule a Final Inspection and require the Contractor to demonstrate that all equipment and systems operate as designed. The Owner may elect to have other persons, firms or agencies participate in the inspections.
- B. Failure of the Contractor to achieve completion within the allowed time shall entitle the Owner to consider the Contractor in breach of the Contract.
- C. If more than one final inspection is required, the Contractor shall reimburse the Owner for all costs associated with the re-inspection.
- D. Final payment shall not be due and all retained funds shall not be released until the Contractor submits the following:
 - 1. Affidavit of Payment of Debts and Claims;
 - 2. Consent of Surety to Final Payment.

ARTICLE 17 – MISCELLANEOUS PROVISIONS

- A. Drug-Free Workplace: The Contractor certifies to the Owner that Contractor will provide a Drug-Free Work-place, as required by Title 44, Chapter 107 of the South Carolina Code of Laws, as Amended.
- B. Cancellation After Award: Pursuant to §11-35-1520 of the SC Code of Laws, as amended, and South Carolina Regulation 19-445.2085, this Contract or any Construction Services Delivery Order may be canceled after award, but prior to issuance of the Notice to Proceed. In such event, the Contractor shall recover, as its sole remedy, its reasonable Delivery Order Proposal preparation costs.
- C. The Contractor and Owner each bind themselves, their partners, directors, officers, successors, executors, administrators, assigns and legal representatives in respect to all provisions of this Contract. Neither party shall assign, sublet or transfer their interest in this Contract without the written consent of the other party.
- D. This Contract represents the entire and integrated agreement between the Owner and Contractor. It supersedes any and all prior and contemporaneous communications, representations and agreements, whether written or oral relating to the subject matter of this Contract
- E. Nothing in this Contract shall be construed to give any rights, contractual relationship or benefit to a third party against either the Owner or the Contractor.
- F. Nothing in this Contract shall prevent the Contractor from employing any independent consultant, associate, or subcontractor to assist in the Services.
- G. Unless otherwise included in the Contract, nothing shall require the Contractor to discover, handle, remove, or dispose of any hazardous or toxic materials in any form at the project site.
- H. PRICING DATA AND AUDIT:
 - 1. Cost or Pricing Data - Upon request of the Owner or Architect, Contractor shall submit cost or pricing data prior to execution of a Modification which exceeds \$100,000. Contractor shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of pricing the Modification. Contractor's price, including profit, shall be adjusted to exclude any significant sums by which such price was increased because Contractor furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date specified by the parties. Notwithstanding emergencies such adjustments may be made after final payment to the Contractor.

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

2. Cost or pricing data means all facts that, as of the date specified by the parties, prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental; and are verifiable. While they do not indicate the accuracy of the prospective contractor's judgment about estimated future costs or projections, they do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.
 3. Records Retention - the term "records" means any books or records that relate to cost or pricing data that Contractor is required to submit pursuant to Section H 1. Contractor shall maintain records for three years from the date of final payment, or longer if requested by the chief procurement officer. The Owner may audit Contractor's records at reasonable times and places.
- I. **ILLEGAL IMMIGRATION**: Contractor certifies and agrees that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agrees to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable both to Contractor and its subcontractors or sub-subcontractors; or (b) that Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring its subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. (An overview is available at www.procurement.sc.gov).
- J. **Economic Conflict of Interest**: A contractor shall not have or exercise any official responsibility regarding a public contract in which the contractor, or a business with which he is associated, has an economic interest. A person working for contractor shall not have or exercise any official responsibility regarding a public contract in which the person, an individual with whom he is associated, or his family members have an economic interest. If contractor is asked by any person to violate, or does violate, either of these restrictions, contractor shall immediately communicate such information to the procurement officer. The state may rescind, and recover any amount expended as a result of, any action taken or contract entered in violation of this provision. The terms "business with which he is associated," "economic interest," "family member," "immediate family," "individual with whom he is associated," "official responsibility" and "person" have the meanings provided in Section 8-13-100.
- K. **FALSE CLAIMS**: According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty..." of a crime.
- L. **NON-INDEMNIFICATION**: Any term or condition is void to the extent it requires the State to indemnify anyone. It is unlawful for a person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations. (§ 11-9-20) It is unlawful for an authorized public officer to enter into a contract for a purpose in which the sum is in excess of the amount appropriated for that purpose. It is unlawful for an authorized public officer to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of an indebtedness contracted or incurred for a previous year. (§ 11-1-40)
- M. **INTELLECTUAL PROPERTY INDEMNITY**: Without limitation and notwithstanding any other provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the Indemnitees against all actions, proceedings or claims of any nature (and for all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving Intellectual Property (IP) rights related to the Instruments of Service. Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with a detailed, exact statement of particulars (such as a statement prescribing materials, dimensions, and quality of work) furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or

**Terms and Conditions of the University of South Carolina Contract for
Indefinite Delivery of Construction Services**

(ii) that the claim is caused by Contractor's compliance with a detailed, exact statement of particulars furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. State must reasonably cooperate with Contractor's defense of such claims or suits and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, may allow Contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. State may participate in the defense of any action. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement. "IP rights" means any rights protected by the laws governing patents, copyrights, trademarks, trade secrets, or any other proprietary rights. As used in this paragraph, "Indemnitees" means the State (including its instrumentalities, agencies, departments, boards, and political subdivisions), the contractor, the subcontractors at all tiers, and the officers, agents and employees of all the forgoing.

ARTICLE 18 - GOVERNING LAW

- A. This Contract shall comply with South Carolina Law §11-35-3310 and related Statutes.
- B. As required by §10-1-180 of the SC Code of Laws, as amended, the Office of State Engineer shall determine the enforcement and interpretation of all the applicable codes and referenced standards on state buildings.
- C. Contractor shall refer any questions, comments or directives from local officials to the Owner and the Office of State Engineer for resolution.
- D. If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

ARTICLE 19 – OTHER PROVISIONS

- A. _____

**SE-330 – LUMP SUM BID
BID FORM**

Bidders shall submit bids on only Bid Form SE-330.

BID SUBMITTED BY: _____
(Bidder's Name)

BID SUBMITTED TO: The University of South Carolina
(Owner's Name)

FOR PROJECT: PROJECT NAME Indefinite Delivery of General Contracting Services
PROJECT NUMBER H27-D163-CA

OFFER

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

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

- Bid Bond with Power of Attorney Electronic Bid Bond Cashier's Check
(Bidder check one)

§ 3. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into this Bid:

ADDENDUM No: _____

§ 4. Bidder accepts all terms and conditions of the Invitation for Bids, including, without limitation, those dealing with the disposition of Bid Security. Bidder agrees that this Bid, including all Bid Alternates, if any, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that Bidder may agree to in writing upon request of the Owner.

§ 5. Bidder herewith offers to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

§ 6.1 **BASE BID WORK** *(as indicated in the Bidding Documents and generally described as follows):* Project scope is to eliminate unsafe footing in the central patio area of the Swearingen by removing a failed tiled surface and replacing it with a safe walk surface.

_____, which sum is hereafter called the Base Bid.
(Bidder - insert Base Bid Amount on line above)

**SE-330 – LUMP SUM BID
BID FORM**

§ 6.2 BID ALTERNATES - as indicated in the Bidding Documents and generally described as follows:

ALTERNATE # 1 (Brief Description): _____

ADD TO or DEDUCT FROM BASE BID: _____

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 2 (Brief Description): _____

ADD TO or DEDUCT FROM BASE BID: _____

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 3 (Brief Description): _____

ADD TO or DEDUCT FROM BASE BID: _____

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

**SE-330 – LUMP SUM BID
BID FORM**

§ 7. LISTING OF PROPOSED SUBCONTRACTORS PURSUANT TO SECTION 3020(b)(1), CHAPTER 35, TITLE 11 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED – (See Instructions on the following page BF-2A)

Bidder shall use the below-listed Subcontractors in the performance of the Subcontractor Specialty work listed:

SUBCONTRACTOR SPECIALTY By License Classification and/or Subclassification (Completed by Owner)	SUBCONTRACTOR'S PRIME CONTRACTOR'S NAME (Must be completed by Bidder) BASE BID	SUBCONTRACTOR'S PRIME CONTRACTOR'S SC LICENSE NUMBER
None Required		
ALTERNATE 1		
ALTERNATE 2		
ALTERNATE 3		

If a Bid Alternate is accepted, Subcontractors listed for the Bid Alternate shall be used for the work of both the Alternate and the Base Bid work.

**INSTRUCTIONS FOR
SUBCONTRACTOR LISTING**

- 1.** Section 7 of the Bid Form sets forth a list of subcontractor specialties for which bidder is required to identify by name the subcontractor(s) Bidder will use to perform the work of each listed specialty. Bidder must identify only the subcontractor(s) who will perform the work and no others.
- 2.** For purposes of subcontractor listing, a Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the bidder or proposed subcontractor(s) are not subcontractors and Bidder should not insert their names in the spaces provided on the bid form. Likewise, Bidder should not insert the names of sub-subcontractors in the spaces provided on the bid form but only the names of those entities with which bidder will contract directly.
- 3.** Bidder must only insert the names of subcontractors who are qualified to perform the work of the listed specialties as specified in the Bidding Documents and South Carolina Licensing Laws.
- 4.** If under the terms of the Bidding Documents, Bidder is qualified to perform the work of a specialty listed and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert its own name in the space provided for that specialty.
- 5.** If Bidder intends to use multiple subcontractors to perform the work of a single specialty listing, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "**and**". If Bidder intends to use both his own employees to perform a part of the work of a single specialty listing and to use one or more subcontractors to perform the remaining work for that specialty listing, bidder must insert his own name and the name of each subcontractor, preferably separating the name of each with the word "**and**".
- 6.** Bidder may not list subcontractors in the alternative nor in a form that may be reasonably construed at the time of bid opening as a listing in the alternative. A listing that requires subsequent explanation to determine whether or not it is a listing in the alternative is non-responsive. If bidder intends to use multiple entities to perform the work for a single specialty listing, bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "**and**" between the name of each entity listed for that specialty. Owner will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Owner may reasonably interpret as a listing in the alternative.
- 7.** If Bidder is awarded the contract, bidder must, except with the approval of the owner for good cause shown, use the listed entities to perform the work for which they are listed.
- 8.** If bidder is awarded the contract, bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
- 9.** Bidder's failure to insert a name for each listed specialty subcontractor will render the Bid non-responsive.

**SE-330 – LUMP SUM BID
BID FORM**

§ 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (FOR INFORMATION ONLY): Pursuant to instructions in the Invitation for Bids, if any, Bidder will provide to Owner upon the Owner's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code Ann § 11-35-3020(b)(i).

§ 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

a. **CONTRACT TIME:** Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Owner. Bidder agrees to substantially complete the Work within 60 calendar days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

b. **LIQUIDATED DAMAGES:** Bidder further agrees that from the compensation to be paid, the Owner shall retain as Liquidated Damages the sum of \$200.00 for each calendar day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This sum is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

§ 10. AGREEMENTS

- a. Bidder agrees that this bid is subject to the requirements of the law of the State of South Carolina.
- b. Bidder agrees that at any time prior to the issuance of the Notice to Proceed for this Project, this Project may be canceled for the convenience of, and without cost to, the State.
- c. Bidder agrees that neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

§ 11. ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the AIA Document A310, Bid Bond, included in the Bidding Documents.

Electronic Bid Bond Number: _____

Signature and Title: _____

**SE-330 – LUMP SUM BID
BID FORM**

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: _____

OR

SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

Classification(s) & Limits: _____

Subclassification(s) & Limits: _____

SC Contractor's License Number(s): _____

BY SIGNING THIS BID, THE PERSON SIGNING REAFFIRMS ALL REPRESENTATIONS AND CERTIFICATIONS MADE BY BOTH THE PERSON SIGNING AND THE BIDDER, INCLUDING WITHOUT LIMITATION, THOSE APPEARING IN ARTICLE 2 OF THE INSTRUCTIONS TO BIDDER. THE INVITATION FOR BIDS, AS DEFINED IN THE INSTRUCTIONS TO BIDDERS, IS EXPRESSLY INCORPORATE BY REFERENCE.

SIGNATURE

BIDDER'S LEGAL NAME: _____

ADDRESS: _____

BY: _____
(Signature)

DATE: _____

TITLE: _____

TELEPHONE: _____

EMAIL: _____



Project Name: _____
Contractor Subspecialty _____
State Project No.: _____ CP No.: _____
USC Project Coordinator: _____ Telephone No.: _____

Scope of Work:

Delivery Order Documents Available: Yes No
May Be Obtained From: _____

Mandatory Pre-Quote Conference: Yes No
Date: _____ Time: _____ Location: _____

RFQ Closing Date: _____ Time: _____
Location: _____ Attention: _____

NOTE: If quote exceeds \$50,000, performance bonds and payment bonds will be required.

QUOTE FORM

Quote Submitted By: _____

Quote is submitted in accordance with IDC Contract _____ dated _____

Base Quote 1: \$ _____

Base Quote 2: \$ _____

Unit Pricing for Additional (if requested): \$ _____

Base Schedule: _____
Start Date _____ End Date _____

At this time, the above mentioned company chooses not to bid.

ADDENDA (If Applicable) - The above signed acknowledges the receipt of the following addenda for this RFQ:

Addendum #1 Addendum #2 Addendum #3 Addendum #4

This Quote is hereby submitted on behalf of the **offerer named above**

BY: _____
(Signature of Offerer's Representative) (Print or Type Name of Offerer's Representative)

Date: _____

****Quotes that are received via fax will not be accepted****

SE-355
Performance Bond

2011 Edition

KNOW ALL MEN BY THESE PRESENTS, that *(Insert full name or legal title and address of Contractor)*

Name: _____
Address: _____

hereinafter referred to as "Contractor", and *(Insert full name and address of principal place of business of Surety)*

Name: _____
Address: _____

hereinafter called the "surety", are jointly and severally held and firmly bound unto *(Insert full name and address of Agency)*

Name: University of South Carolina
Address: 743 Greene Street
Columbia, South Carolina 29208

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

WHEREAS, Contractor has by written agreement dated _____ entered into a contract with Agency to construct

State Project Name: IDC General Contracting Services
State Project Number: H27-D163-CA
Brief Description of Awarded Work, as found on the SE-330, Bid Form: Project scope is to eliminate unsafe footing in the central patio area of the Swearingen by removing a failed tiled surface and replacing it with a safe walk surface.

in accordance with Drawings and Specifications prepared by *(Insert full name and address of A/E)*

Name: Chao & Associates, Inc
Address: 7 Cluster Court
Columbia, SC 29210

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

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

DATED this _____ day of _____, 2_____, BOND NUMBER _____
(shall be no earlier than Date of Contract)

CONTRACTOR

SURETY

By: _____
(Seal)

By: _____
(Seal)

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____
(Attach Power of Attorney)

Witness: _____

Witness: _____

(Additional Signatures, if any, appear on attached page)

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

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Agency for the full and faithful performance of the contract, which is incorporated herein by reference
2. If the Contractor performs the contract, the Surety and the Contractor have no obligation under this Bond, except to participate in conferences as provided in paragraph 3.1.
3. The Surety's obligation under this Bond shall arise after:
 - 3.1 The Agency has notified the Contractor and the Surety at the address described in paragraph 10 below, that the Agency is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If the Agency, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Agency's right, if any, subsequently to declare a Contractor Default; or
 - 3.2 The Agency has declared a Contractor Default and formally terminated the Contractor's right to complete the Contract.
4. The Surety shall, within 15 days after receipt of notice of the Agency's declaration of a Contractor Default, and at the Surety's sole expense, take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Agency, to perform and complete the Contract; or
 - 4.2 Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Agency for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Agency and the contractor selected with the Agency's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to the Agency the amount of damages as described in paragraph 7 in excess of the Balance of the Contract Sum incurred by the Agency resulting from the Contractor Default; or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and:
 - 4.4.1 After investigation, determine the amount for which it may be liable to the Agency and, within 60 days of waiving its rights under this paragraph, tender payment thereof to the Agency; or
 - 4.4.2 Deny liability in whole or in part and notify the Agency, citing the reasons therefore.
5. Provided Surety has proceeded under paragraphs 4.1, 4.2, or 4.3, the Agency shall pay the Balance of the Contract Sum to either:
 - 5.1 Surety in accordance with the terms of the Contract; or
 - 5.2 Another contractor selected pursuant to paragraph 4.3 to perform the Contract.
- 5.3 The balance of the Contract Sum due either the Surety or another contractor shall be reduced by the amount of damages as described in paragraph 7.
6. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond 15 days after receipt of written notice from the Agency to the Surety demanding that the Surety perform its obligations under this Bond, and the Agency shall be entitled to enforce any remedy available to the Agency.
 - 6.1 If the Surety proceeds as provided in paragraph 4.4, and the Agency refuses the payment tendered or the Surety has denied liability, in whole or in part, then without further notice the Agency shall be entitled to enforce any remedy available to the Agency.
 - 6.2 Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the Dispute Resolution process defined in the Contract Documents and the laws of the State of South Carolina.
 7. After the Agency has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Agency shall be those of the Contractor under the Contract, and the responsibilities of the Agency to the Surety shall those of the Agency under the Contract. To a limit of the amount of this Bond, but subject to commitment by the Agency of the Balance of the Contract Sum to mitigation of costs and damages on the Contract, the Surety is obligated to the Agency without duplication for:
 - 7.1 The responsibilities of the Contractor for correction of defective Work and completion of the Contract; and
 - 7.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and
 - 7.3 Damages awarded pursuant to the Dispute Resolution Provisions of the Contract. Surety may join in any Dispute Resolution proceeding brought under the Contract and shall be bound by the results thereof; and
 - 7.4 Liquidated Damages, or if no Liquidated Damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.
 8. The Surety shall not be liable to the Agency or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Sum shall not be reduced or set-off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Agency or its heirs, executors, administrators, or successors.
 9. The Surety hereby waives notice of any change, including changes of time, to the contract or to related subcontracts, purchase orders and other obligations.
 10. Notice to the Surety, the Agency or the Contractor shall be mailed or delivered to the address shown on the signature page.
 11. Definitions
 - 11.1 Balance of the Contract Sum: The total amount payable by the Agency to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts to be received by the Agency in settlement of insurance or other Claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.
 - 11.2 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform the Contract or otherwise to comply with the terms of the Contract.

SE-357
Labor and Material Payment Bond

KNOW ALL MEN BY THESE PRESENTS, that *(Insert full name or legal title and address of Contractor)*

Name: _____
Address: _____

hereinafter referred to as "Contractor", and *(Insert full name and address of principal place of business of Surety)*

Name: _____
Address: _____

hereinafter called the "surety", are jointly and severally held and firmly bound unto *(Insert full name and address of Agency)*

Name: University of South Carolina
Address: 743 Greene Street
Columbia, South Carolina 29208

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

WHEREAS, Contractor has by written agreement dated _____ entered into a contract with Agency to construct

Project Name: IDC General Contracting Services
Project Number: H27-D163-CA
Brief Description of Awarded Work, as found on the SE-330, Bid Form: Project scope is to eliminate unsafe footing in the central patio area of the Swearingen by removing a failed tiled surface and replacing it with a safe walk surface.

in accordance with Drawings and Specifications prepared by *(Insert full name and address of A/E)*

Name: Chao & Associates, Inc
Address: 7 Cluster Court
Columbia, SC 29210

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

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

DATED this _____ day of _____, 2 BOND NUMBER _____
(shall be no earlier than Date of Contract)

CONTRACTOR

SURETY

By: _____
(Seal)

By: _____
(Seal)

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____
(Attach Power of Attorney)

Witness: _____

Witness: _____

(Additional Signatures, if any, appear on attached page)

SE-357

Labor and Material Payment Bond

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

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Agency to pay for all labor, materials and equipment required for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to the Agency, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants; and
 - 2.2 Defends, indemnifies and holds harmless the Agency from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. With respect to Claimants, and subject to the provisions of Title 29, Chapter 5 and the provisions of §11-35-303(2)(c) of the SC Code of Laws, as amended, the Surety's obligation under this Bond shall arise as follows:
 - 4.1 Every person who has furnished labor, material or rental equipment to the Contractor or its subcontractors for the work specified in the Contract, and who has not been paid in full therefore before the expiration of a period of ninety (90) days after the date on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute such action for the sum or sums justly due him.
 - 4.2 A remote claimant shall have a right of action on the payment bond upon giving written notice by certified or registered mail to the Contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made.
 - 4.3 Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the county or circuit in which the construction contract was to be performed, but no such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material or rental equipment was supplied by the person bringing suit.
5. When the Claimant has satisfied the conditions of paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 5.1 Send an answer to the Claimant, with a copy to the Agency, within sixty (60) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 5.2 Pay or arrange for payment of any undisputed amounts.
 - 5.3 The Surety's failure to discharge its obligations under this paragraph 5 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a claim. However, if the Surety fails to discharge its obligations under this paragraph 5, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant.
6. Amounts owed by the Agency to the Contractor under the

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

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

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

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

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

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

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

13. DEFINITIONS

13.1 Claimant: An individual or entity having a direct contract with the Contractor or with a Subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of the Contractor and the Contractor's Subcontractors, and all other items for which a mechanic's lien might otherwise be asserted.

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

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

SE-690

Construction Services Delivery Order Modification

AGENCY: University of South Carolina
Address: 743 Greene Street, Columbia, SC 29208

CONTRACTOR: _____
Address: _____

Project Name: IDC General Contracting Services
Agency IDC Contract No.: H27-D163-CA
Delivery Order Modification No.: _____

State Project No.: _____
Agency Delivery Order No.: _____

COST AND SCHEDULE INFORMATION

SCHEDULE

	<u>DELIVERY ORDER</u>	<u>CONTRACT</u>
Maximum Total Amount, this IDC:	N/A	
Maximum Total Amount, Delivery Orders:	N/A	
Current Amount, this Delivery Order:		N/A
Additional Amount, this Modification:		N/A
Adjusted Amount, this Delivery Order:		N/A
Total Authorized to date, all other Delivery Orders:		
Total Authorized to date <i>:(including this modification):</i>		
Balance Remaining for this IDC:	N/A	

Date of Commencement: _____
Initial Days Allowed: _____
Additional Days Allowed: _____
Revised Date of Substantial Completion: _____

Description of Modification Scope: *(attach Contractor's Proposal* _____

Other Agency Information

List of Modification Documents: *(refer to attachments as necessary)* _____

The Agency and the Contractor hereby agree, as indicated by the signatures below, to the revised scope of work identified in the Modification Documents listed above, and to the Contractor's Cost Proposal dated the ____ day of ____, 20____, and this Delivery Order Modification shall be assigned to the Indefinite Delivery

AGENCY:

CONTRACTOR:

BY: _____
(Signature of Representative)

BY: _____
(Signature of Representative)

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Construction Services Delivery Order

AGENCY: University of South Carolina
Address: 743 Greene Street, Columbia, SC 29208

CONTRACTOR: _____
Address: _____

Project Name: IDC General Contracting Services
Agency IDC Contract No.: H27-D163-CA

State Project No.: _____
Agency Delivery Order No.: _____

<u>COST AND SCHEDULE INFORMATION</u>		<u>SCHEDULE</u>	
	<u>DELIVERY ORDER</u>	<u>CONTRACT</u>	
Maximum Total Amount, this IDC:	N/A		Date of Commencement: _____
Maximum Total Amount, Delivery Order:	N/A		Days Allowed: _____
Amount, this Delivery Order:		N/A	Date of Substantial Completion: _____
Total Amount Previous Delivery Orders:	N/A		<u>Other Agency Information:</u>
Total Amount all Delivery Orders (including current order)			_____
Balance Remaining for this IDC:			
Description of Delivery Order Scope: (attach Contractor's Proposal) _____			
List of Delivery Order Documents: (refer to attachments as necessary) _____			

The Agency and the Contractor hereby agree, as indicated by the signatures below, to the scope of work identified in the Contract Documents listed above, and to the Contractor's Cost Proposal dated the ____ day of ____, 20 ____, and this Delivery Order shall be assigned to the Indefinite Delivery Contract identified above

NOTICE TO PROCEED is hereby given on this the ____ day of ____, 20 ____. The Dates of Commencement and Substantial Completion are as noted above and shall be used for determining completion and the applicability of Liquidated Damages. Liquidated Damages in the amount of ____ per day will be assessed for failure to complete the Work by the agreed upon date of completion. Failure to commence actual work on this Delivery Order within seven (7) days from the Date of Commencement will entitle the Agency to consider the Contractor non-responsible. In this event, the Agency may withdraw this Delivery Order and terminate the Contract in accordance with the Contract Documents.

<u>AGENCY:</u>	<u>CONTRACTOR:</u>
BY: _____ (Signature of Representative)	BY: _____ (Signature of Representative)
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

COMPLETION CERTIFICATION BY AGENCY:

Actual Completion Date:
Liquidated Damages Assessed:

(Signature of Agency Representative)
Title: _____

Date:

USC SUPPLEMENTAL GENERAL CONDITIONS
FOR CONSTRUCTION PROJECTS

1. Contractor's employees shall take all reasonable means not to interrupt the flow of student traffic in building corridors, lobbies and stairs. All necessary and reasonable safety precautions shall be taken to prevent injury to building occupants while transporting materials and equipment through the building to the work area. Providing safe, accessible, plywood pedestrian ways around construction may be required if a suitable alternative route is not available.
2. Fraternalization between Contractor's employees and USC students, faculty or staff is strictly prohibited - zero tolerance!
3. USC will not tolerate rude, abusive or degrading behavior on the job site. Heckling and cat-calling directed toward students, faculty or staff or any other person on USC property is strictly prohibited. Any contractor whose employees violate this requirement will be assessed a fine of up to \$500 per violation.
4. Contractor's employees must adhere to the University's policy of maintaining a drug-free and smoke-free/tobacco free workplace.
5. Contractor must sign a Contractor Key Receipt/Return form before any keys are issued. Keys must be returned immediately upon the completion of the work. The Contractor will bear the cost of any re-keying necessary due to the loss of or failure to return keys.
6. A welding permit must be issued by the University Fire Marshall before any welding can begin inside a building. Project Manager will coordinate.
7. Contractor must notify the University immediately upon the discovery of suspect material such as those potentially containing asbestos or other such hazardous materials. These materials **must not** be disturbed until approved by the USC Project Manager.
8. At the beginning of the project, the USC Project Manager will establish the Contractor's lay-down area. This area will also be used for the Contractors work vehicles. No personal vehicles will be allowed in this area, or in any areas surrounding the construction site that are not regular or authorized parking lots. Personal vehicles must 'be parked in the perimeter parking lots. Parking permits can be obtained at the USC Parking Office located in the Pendleton Street parking garage. The lay down area will be clearly identified to the contractor by the PM, with a sketch or drawing provided to Parking. In turn, the contractor will mark off this area with a sign containing the project name, PM name, Contractor name and contact number, and end date. Where this area is subject to foot traffic, protective barriers will be provided as specified by the PM. The area will be maintained in a neat and orderly fashion.
9. Contractor will be responsible for providing its own temporary toilet facilities, unless prior arrangements are made with the USC Project Manager.

10. Use of USC communications facilities (telephones, computers, etc.) by the Contractor is prohibited, unless prior arrangements are made with the USC Project Manager.
11. For all projects over \$100,000, including IDC's, an SE-395, Contractor Performance Evaluation, will be completed by the USC Project Manager and reviewed with the GC at the beginning of the project and a copy given to the GC. At the end of the project the form will be completed and a Construction Performance rating will be established.
12. Contractor is responsible for removal of all debris from the site, and is required to provide the necessary dumpsters which will be emptied at least one (1) times per week. Construction waste must not be placed in University dumpsters. The construction site must be thoroughly cleaned with all trash picked up and properly disposed of on a daily basis and the site must be left in a safe and sanitary condition each day. The University will inspect job sites regularly and will fine any contractor found to be in violation of this requirement an amount up to \$1,000.00 daily per violation.
13. Contractor must provide all O&M manuals, as-built drawings, and training of USC personnel on new equipment, controls, etc. prior to Substantial Completion. Final payment will not be made until this is completed.
14. Tree protection fencing is required to protect existing trees and other landscape features to be preserved within a construction area. The limits of this fence will be evaluated for each situation with the consultant, USC Arborist and USC Project Manager. The tree protection fence shall be 6' high chain link fence unless otherwise approved by USC Project Manager. No entry or materials storage will be allowed inside the tree protection zone. A 3" layer of mulch shall be placed over the tree protection area to maintain moisture in the root zone if USC Arborist determines that construction may decrease amount of moisture needed to sustain health of tree(s).
15. Contractor shall water trees and other landscape material as directed by USC Arborist until site is returned to Owner.
16. Where it is necessary to cross walks, tree root zones (i.e., under canopy) or lawns the following measures shall be taken: For single loads up to 9,000 lbs., a 3/4" minimum plywood base shall be placed over areas impacted. For single loads over 9,000 lbs., two layers of 3/4" plywood is required.
17. For projects requiring heavy loads to cross walks, tree root zones or lawns on a regular basis (as determined by USC Project Manager), a construction entry road consisting of 10' X 16' oak logging mats placed on 12" coarse, chipped, hardwood base. Mulch and logging mats shall be supplemented throughout the project to keep matting structurally functional.
18. Any damage to existing landscaping (including lawn areas) will be remediated at Contractor's expense before final payment is made.

Contractor Vehicle Requirements on Campus

1. All motorized vehicles on the University campus are expected to travel and park on roadways and/or in parking stalls.
2. All motorized vehicle traffic on USC walkways must first be authorized by USC Grounds Department and USC Project Manager. Violators may be subject to fines and penalties.
3. All motorized vehicles that leak or drip liquids are prohibited from traveling or parking on walks or landscaped areas.
4. Contractors, vendors, and delivery personnel are required to obtain prior parking authorization before parking in a designated space. Violators may be subject to fines and/or penalties. See Item 10 below.
5. Drivers of equipment or motor vehicles that damage university hardscape or landscape will be held personally responsible for damages and restoration expense.
6. Vehicle drivers who park on landscape or drives must be able to produce written evidence of need or emergency requiring parking on same.
7. All vehicles parked on landscape, hardscape, or in the process of service delivery, must display adequate safety devices, i.e. flashing lights, cones, signage, etc.
8. All drivers of equipment and vehicles will be respectful of University landscape, equipment, structures, fixtures and signage.
9. All incidents of property damage will be reported to Parking Services or the Work Management Center.
10. Parking on campus is restricted to spaces designated by Parking Services at the beginning of the project. Once the project manager and contractor agree on how many spaces are needed, the project manager will obtain a placard for each vehicle. This placard must be hung from the mirror of the vehicle, otherwise a ticket will be issued and these tickets cannot be Afixed@. Parking spaces are restricted to work vehicles only; no personal vehicles.

Project Name: Indefinite Delivery of General Contracting Services
Project Number: H27-D163-CA
University of South Carolina

CONTRACTOR'S ONE YEAR GUARANTEE

STATE OF _____

COUNTY OF _____

WE _____
as General Contractor on the above-named project, do hereby guarantee that all work executed under the requirements of the Contract Documents shall be free from defects due to faulty materials and /or workmanship for a period of one (1) year from date of acceptance of the work by the Owner and/or Architect/Engineer; and hereby agree to remedy defects due to faulty materials and/or workmanship, and pay for any damage resulting wherefrom, at no cost to the Owner, provided; however, that the following are excluded from this guarantee;

Defects or failures resulting from abuse by Owner.

Damage caused by fire, tornado, hail, hurricane, acts of God, wars, riots, or civil commotion.

[Name of Contracting Firm]

*By _____

Title _____

*Must be executed by an office of the Contracting Firm.

SWORN TO before me this
_____ day of _____, 2____ (seal)

_____ State

My commission expires _____

Project Specification

For

**University of South Carolina
Swearingen Building Courtyard**

Prepared by

Chao and Associates, Inc.

May 2012



I. DEMOLITION

Break out and remove existing tile floor and the mortar bed underneath located in the atrium area. Properly remove and dispose tiles and debris off the jobsite.

II. CONCRETE CRACK REPAIR AND CUTTING

1. Chase out all existing concrete cracks located in the concrete slab after tile and mortar has been removed.
2. Use Sikadur® 33 to repair all the concrete cracks on the existing concrete slab. Follow epoxy compound manufacturer's recommendation to properly repair the cracks.
3. Saw cut through concrete slab at locations shown on the structural plan. This procedure helps prevent the cracks located at existing concrete slabs from reaching the new concrete surface.

III. CONCRETE INSTALLATION

SURFACE PREPARATION: Clean all loose material from the problem area by sand blasting, water blasting, scarifying, or use a power tool.

PRE-SOAK: Area to be overlaid must be pre-soaked using water. Follow ACI recommended procedure of "24 hour" pre-soak. Deviation from ACI recommendation may result in bond failure.

BOND COAT: Broadcast fresh Portland Type I or III cement on the cleaned/pre-soaked concrete to be patched. Using a stiff bristle brush or stiff floor broom, scrub thoroughly into concrete. When completed, this bond coat should have the consistency of thick latex paint. During this procedure you may have to add more water and/or cement to achieve results. Do not allow to dry!

MIX AND PLACEMENT: The following procedures are for concrete truck mixers application with Gill 33 Superbond . The contractor may opt to use large portable mixers at no extra cost to the Owner. The procedures utilizing portable mixers are similar.

Step 1 Order 4000 PSI concrete with a 1-2 inch slump from ready-mix plant. Minimum Portland cement per yard is 611 pounds. Keep the concrete at 4 yards per truck, not to exceed 5 yards per truck.

Step 2 When the concrete truck arrives, check the slump to meet 1-2 inch requirement. Add Gill 33 Superbond as a ratio of 4 gallon per yard of concrete. Thoroughly shake Gill 33 Superbond container to disperse all the solids throughout the solution.

Step 3 Rotate the drum at high speed for a minimum of 100 revolutions to ensure dispersion of the Gill 33 Superbond into the mix. Required slump shall be 3-4 inches. If necessary, add water at 3-4 gallon increments or use super plasticizer to adjust the slump.

Step 4 Once the Gill 33 Superbond has been added and the slump is correct, begin the pour. At this point, you have approximately 35-45 minutes (based on 70 degree Fahrenheit and the time will be less in hot weather) to finish the concrete once it is placed.

Step 5 Use 20-40 gallons of water into the concrete truck to dilute the remaining concrete and to neutralize the Gill 33 Superbond. Discard the contents of the truck and clean up immediately. Do not wait until the truck returns to the ready-mix plant.

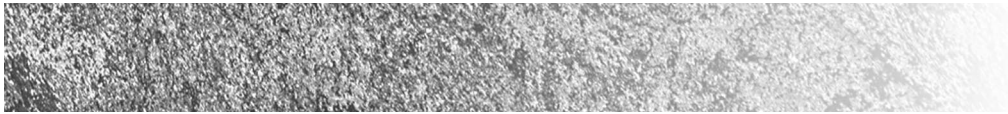
CONCRETE STAMPING: The surface shall be struck off and floated to produce a smooth even surface with a maximum surface variance of plus or minus 1/8 inch in 10 feet in any direction. Control concrete elevations and slopes according to the plan. Controls shall be laid out prior to stamping the concrete with any necessary strings and stakes for lining up the stamping tools. The freshly placed concrete surface shall be barricaded against access for at least 24 hours after the release powder has been applied. The concrete shall not be opened to pedestrian traffic until the release powder has been washed off. Obtain written approval from the owner for stamped concrete pattern and color.

Joints: The control joints shall be sawed as soon as the concrete has hardened such that no raveling or spalling occurs, but before any random uncontrolled cracking develops. Joint depths shall be maintained at 1/4 of the slab(s) thickness. Joints shall be sawed with their faces perpendicular to the surface of the newly installed concrete and shall not vary more than 3/16 inch from their designated position. Locations for longitudinal and transverse joints shall be as shown in the plan.

CURING: After concrete is finished, immediately cover using plastic, burlap, or other membrane sealing system. This must remain for 4 hours. Failure to cure properly may result in plastic shrinkage cracks, slab curl and/or improper bond.

IV. CONCRETE STAINS REMOVAL

Remove concrete stains on the exterior wall of the balconies. Wash off any cleaning solution residuals. Pain the stain area if necessary to match the adjacent wall color.



Technical Bulletin

No. 33 March 2012

Gill 33® - Superbond

Type: A liquid, micro-silica based admixture to produce concrete that permanently bonds to existing concrete, is non-shrink and develops high early strength.

Intended Use: Concrete modified using Gill 33®, Gill Modified Concrete, is effective in permanently patching and overlaying damaged concrete. Gill Modified Concrete can be used for thin overlays or full depth pours. Concrete made with Gill 33® may be top coated with paint or a protective coating in 24 to 48 hours depending upon mix design and temperature. This concrete also results in high early strength allowing most vehicular traffic four hours after curing. Specific uses for the Gill 33® are intended for bridge and highway surfaces, industrial plant floors, equipment supports, parking garage decks, wastewater treatment plants, chemical and petroleum secondary containment systems and pump bases, and many others. Gill Modified Concrete is for use only on unpainted, non-coated concrete that has been properly prepared and cleaned per our Procedural Bulletins. For contaminated concrete, use Gill 17 Gill Lock to ensure proper adhesion between old and new concrete. See Technical Bulletin No. 17 for additional information.

Government Agency Acceptance:

Tested/certified to CRD-C-621 US Army Corps of Engineers.

Chemical Resistance: Gill 33® does not prevent chemical attack on concrete. Gill 33® does increase the density, specific gravity, and reduces voids in concrete, significantly lowering permeability. The decrease in penetration of chemically contaminated liquids and vapors does reduce the area of chemical attack. For use in harsh environments, a coating is recommended.

Applications: Gill Modified Concrete can be prepared in buckets, portable mixers, or batch trucks.

Color: Although Gill 33® is black, it does not affect the color of the cured concrete. Gill 33® can be mixed with white portland cement and white sand producing brilliant white concrete.

Drying / Curing Time: Gill Modified Concrete can withstand normal tired vehicular traffic in 4 hours @ 70°F, with suitability for coating within 24 hours at stated temperature. Actual coating time may vary depending upon dosage, temperature, and mix design. For your particular application, consult your coating manufacturer.

Coverage: One cubic yard of Gill Modified Concrete provides the following coverage:

<u>Thickness</u>	<u>Square Feet</u>	<u>Course Aggregate</u>
.125"	2,592	No
.500"	648	No
1.00"	324	Optional
2.00"	162	Optional
4.00"	81	Optional

Shelf Life: Stored in undiluted form, shelf life is indefinite. Once diluted with water, shelf life is about 12 hours. There are no storage restrictions or limitations.

Shipping Weight: 11.2 lbs. per gallon, including container. Standard packaging is one and five gallon containers.

Volatile Organic Compounds: None

Safety Precautions: See Manufacturer's Safety Data Sheet.

Equipment: Mixing equipment of either small portable mixer or batch plant truck, blasting mechanism capable of course grit, several stiff hand brushes, trowels, plastic/burlap, several 1 & 5 gallon buckets plus general masonry equipment. Air compressor and air-hammer are highly recommended if needed.

* Continued on next page

Technical Bulletin (Cont.)

No. 33 March 2012

Test Data: Test conducted by certified independent test laboratories.

Freeze Thaw: ASTM C-666B	Average Durability Factor Average Cycles	100.00% 300.00%
Bond Strength: ASTM C-862 MOD, ASTM C-1042	4,422 PSI @ 28 days 4,460 PSI @ 28 days	
Compression Strength: ASTM C-39	3,870 PSI @ 1 day 4,790 PSI @ 7 days 5,300 PSI @ 14 days 6,150 PSI @ 28 days	
Flexural Strength: ASTM C-78	675 PSI @ 3 days 830 PSI @ 7 days 1,030 PSI @ 28 days	
Splitting Tensile: ASTM C-496	470 PSI @ 28 days	
Length Change: ASTM C-157	+0.029% change @ 28 days +0.050% change @ 37 days +0.023% change @ 90 days +0.018% change @ 120 days	
Final Set: ASTM C-403	3:33 (hrs:min)	
Non- Shrink Grout: CRD-C-621-89A	Shrinkage/Expansion	0.00%
Absorption: ASTM C-642	Lowers Absorption By	10.47%
Specific Gravity: ASTM C-642	Higher	5.94%
Voids: ASTM C-642	% Less	8.25%

Please contact a Gill representative for your specific applications.

GILL INDUSTRIES, INC
3462 Kershaw-Camden Highway, Lancaster, SC 29720
PHONE 800.926.2433
FAX 803.285.4832
WWW.GILLINDUSTRIES.COM



Procedural Bulletin / Ready Mix Truck

No. 33-3 March 2012

Gill 33[®] Superbond

Purpose: This Procedural Bulletin No. 33-3 details the procedure in handling ready mix concrete modified with Gill 33[®] or Gill 33 MCI[®]. All references to Gill 33[®] also include the MCI[®] variant.

Planning: Concrete containing Gill 33[®] has a 52% quicker set time (ASTM C-403) and requires appropriate planning to ensure a trouble free placement and finishing. The decreased set time allows Gill Modified Concrete to be top coated with a protective coating in 24 to 48 hours depending upon dosage, temperature, and mix design. Gill Modified Concrete is significantly less expensive per cubic foot than epoxy and bagged cementitious grouts, plus may be placed in large quantities subject to this Procedural Bulletin.

Labor: Labor requirements may need to be increased if bonding to an existing concrete slab in order to compensate for the extra step in applying the bond coat as detailed in Procedural Bulletin No. 33-1. In full depth pours and thin overlay placements, additional labor may be required to compensate for decreased set time and greater surface area occurring in less than full depth placements respectively.

Equipment Considerations: Due to decreased set time, ready mix trucks should be limited to 5 yards maximum and should be discharged from truck between 30-60 minutes depending upon temperature. Projects requiring more than one truck should plan for additional trucks to arrive no later than 10 minutes from complete discharge of the previous truck. This should include time required to dose trucks as below. Additional transport equipment such as wheelbarrows and power buggies may be needed to place concrete in allotted time.

Mix Design: Unless specifications require otherwise, order 4000 PSI concrete with a 1-2 inch slump, 5 yards maximum per truck. Air-entraining admixtures are encouraged when concrete is placed in freeze thaw environments. No water reducers are needed.

Dosage Rate: For non-shrink concrete repairs and overlays, the dosage rate is 3 gallons per yard. For non-shrink grout, the dosage rate is 6 gallons per yard. For concrete to be top coated in 24 hours (at 70°F), dosage is 4 gallons per yard. In warmer temperatures, the dosage is 3 gallons per yard of concrete. The actual time for applying a coating is dependent upon moisture sensitivity of the coating, temperature at time of placement of the concrete, permeability of the concrete, and moisture content of the sub-grade. Follow ASTM D-4263 (Plastic Sheet Test) and consult the coating manufacturer.

Procedure: Prior to the arrival of the ready mix truck have the correct amount of Gill 33[®] for each truck (i.e., 4 gallons per yard x 5 yards = 20 gallons). **Each Gill container should be thoroughly shaken to ensure the micro-silica is fully dispersed in solution and does not adhere to the bottom of the container.** With the drum turning, slowly add Gill 33[®] to the truck at the job site. Then turn the drum 75 high-speed revolutions, test the slump and adjust if needed. **In hot weather, the concrete should be out of the ready mix truck in 30 minutes.** After the truck is empty, add approximately 20-30 gallons of water, continue to turn the drum, and proceed to clean out area.

Curing: After placement, immediately cover using plastic, burlap, or other membrane sealing system such as Gill 86 Gill Cure. See Technical Bulletin No. 86 for additional information. This must remain for 4 hours. Do not use spray membrane coatings unless specified by manufacturer. Failure to cure properly may result in plastic shrinkage cracks, slab curl and/or improper bond.

Equipment Clean Up: Gill 33[®] will not damage ready mix drum, hand tools, or pumps. To neutralize Gill 33[®] add 20-30 gallons of water to ready mix drum, turn slowly, and proceed with normal clean out procedure. For hand tools, wheelbarrows, and pumps, clean with water.

Please contact a Gill representative for your specific applications.

MCI[®] is a registered trademark of the Cortec Corporation, St. Paul, MN.
Gill 33[®] is a registered trademark of Gill Industries, Inc., Lancaster, SC.

GILL INDUSTRIES, INC
3462 Kershaw-Camden Highway, Lancaster, SC 29720
PHONE 800.926.2433
FAX 803.285.4832
WWW.GILLINDUSTRIES.COM