



**REQUEST FOR QUALIFICATIONS (RFQ)
and
Contractual Requirements
For
Buck Creek and Simpson Creek Watersheds
Hydrologic and Hydraulic Study
RFQ # 2021-22-082
State Project # D30-N011-MJ**

The Following Applies to this Solicitation:

- **Closing Due Date and Time: July 6, 2022 at 2:00 p.m., Local Time**
- **Questions Acceptance Deadline: June 27, 2022 at 2:00 p.m., Local Time**
- This project is South Carolina Office of Resilience (SCOR) Disaster Recovery Division (DRD) Community Development Block Grant (CDBG) Mitigation (MIT) Action Plan funded (CDBG-MIT). Contract award is contingent upon federal funding availability. All federal, state, and local terms and conditions are applicable to Horry County, and will also be applicable to the successful RFQ respondent. Therefore, all rules and regulations related to such funding will apply, including the Brooks Act.

Prepared by:

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And
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Request for information regarding RFQ should be directed to the Office of Procurement

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ADVERTISEMENT

Horry County is seeking qualified, licensed firm to provide a Hydrologic & Hydraulic Study for the Buck Creek and Simpson Creek Watersheds located in Horry County, SC., both of which are expected to experience significant growth in the near future, for **RFQ # 2021-22-082 Buck Creek and Simpson Creek Watersheds Hydrologic and Hydraulic Study**. Submittals shall contain the requested information and be submitted in the format as show in the Request for Qualifications document.

This project is South Carolina Office of Resilience (SCOR) Disaster Recovery Division (DRD) Community Development Block Grant (CDBG) Mitigation (MIT) Action Plan funded (CDBG-MIT). Contract award is contingent upon federal funding availability. All federal, state, and local terms and conditions are applicable to Horry County, and will also be applicable to the successful RFQ respondent. Therefore, all rules and regulations related to such funding will apply, including the Brooks Act.

Information regarding this Request for Qualifications (RFQ) can be obtained by visiting the BidNet eBidding software, at no cost, at <https://www.bidnetdirect.com/south-carolina/horrycounty>.

All submittals **MUST** be received electronically through BidNet no later than **2:00 p.m., local time, on July 6, 2022**, at which time only the names of the Offerors will be published.

Any actual or prospective responder who feels aggrieved in connection with this procurement or award of a contract may protest to the County Administrator. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should have known of the facts giving rise thereto provided that grievance has been made in accordance with proposal requirement. *Please reference **Subchapter 15-3 - Bid Protests*** of the Horry County Code & Regulation by visiting: <http://www.horrycounty.org/portals/0/docs/procurement/CodeandReg.pdf>.

The point of contact for this project is:

Gordon Gould, gould.gordon@horrycountysc.gov , 843.915.5380.

A. INSTRUCTIONS TO PROPOSERS

1. GENERAL TERMS AND CONDITIONS

General

This solicitation will be conducted in accordance with the Horry County Procurement Code and Regulation. The Horry County Procurement Code and Regulation can be found in its entirety on the County's website at <http://www.horrycounty.org/departments/procurement/bids.aspx>.

Horry County hereby notifies all those responding to this RFQ that, in accordance with the provisions of the Civil Rights Act of 1964 (Chapter 21, Title 42, of the U.S. Code) and Regulations promulgated in connection therewith, that it will affirmatively ensure that any contract entered into pursuant to this RFQ, disadvantaged business enterprises will be afforded full and fair opportunity to make submittals in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Funding

This project is South Carolina Office of Resilience (SCOR) Disaster Recovery Division (DRD) Community Development Block Grant (CDBG) Mitigation (MIT) Action Plan funded (CDBG-MIT). Contract award is contingent upon federal funding availability. All federal, state, and local terms and conditions are applicable to Horry County, and will also be applicable to the successful RFQ respondent. Therefore, all rules and regulations related to such funding will apply, including the Brooks Act.

Submitting a Statement of Qualifications

Statements of Qualifications (SOQ) must be submitted via Horry County's electronic bid software, <https://www.bidnetdirect.com/south-carolina/horrycounty> on or before the due date and time noted on the cover sheet of this document. The only acceptable means of submitting a Statement of Qualifications in reference to this solicitation is through Horry County's electronic bid software. Therefore, no email, fax, hand-delivered, telephone, or text bid submittals will be accepted.

Statements of Qualifications shall contain the requested information and be submitted in the format as shown in this Request for Qualifications (RFQ). Statements of Qualifications may be rejected for any omissions, alteration of form, additions not called for, conditional offers, or any irregularities of any kind are shown.

The County, at its sole discretion, reserves the right to accept or reject any and all proposals, in whole or in part, that are deemed to be in the best interest of the County.

Examination of RFQ Document

All official documents, as published by Horry County Government, should be downloaded from Horry County's electronic bid software (BidNet) and reviewed prior to submission of an offer, unless otherwise indicated. Failure to comply with all requirements, as listed in the solicitation documents, may result in the offer being rejected as non-responsive.

Prior to submitting qualifications, each proposer shall carefully examine the RFQ document, study and thoroughly familiarize himself/herself with the requirements thereof and notify Owner

of all conflicts, errors, or discrepancies.

The submission shall remain firm for no less than **one hundred-twenty (120) calendar days** from the date established for receipt of qualifications submissions (RFQ closing due date and time).

By submission of a Statement of Qualifications, the respondent guarantees that all services offered meet the requirements of the solicitation.

Questions / Addendum

All questions must be submitted via Horry County's e-bidding software prior to the Questions Acceptance Deadline as specified in the e-bidding software. The Question Acceptance Deadline for this Project is **June 27, 2022 at 2:00 p.m., Local Time**. Each question must be submitted individually within the "Q&A" section of the electronic bid software.

All questions and revisions will be provided in the electronic bid software in the form of an addendum. If it becomes necessary to revise any part of this solicitation, an addendum will be published. It shall be the Proposer's responsibility to ensure s/he has all addenda which have been issued by visiting Horry County's e-bidding software at <https://www.bidnetdirect.com/south-carolina/horrycounty>.

All Addenda form a part of the documents for this project and modifies / amends / clarifies / adds to the original documents as described above. By submitting a response, responders acknowledge receipt and inclusion of the effects of this addendum.

Any information obtained outside of the procurement process is non-binding and shall not be used in the response to this solicitation.

Potential and actual proposers are not permitted to contact Horry County employees outside of the Procurement Department during the procurement process. Potential and actual proposers are not permitted to contact any consultants contracted by the County to assist with efforts related, directly or indirectly, to the procurement process. Failure to comply with Horry County Procurement Regulation, Chapter 4, *Contractor Requirements and Standards of Conduct for Horry County and Procurement Participants* may result in the rejection of the submittal and other penalties as applicable.

Non-Collusion

By submitting a response, the party making the foregoing offer agrees that such offer is genuine and not collusive or sham; that said Responder has not colluded, conspired, connived, or agreed, directly or indirectly, with any responder or person to put in a sham response, or that such other person shall refrain from offering and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the submittal of affiant or any other responder or to fix any overhead, profit or cost element of said Response or of that of any other responder or to secure any advantage against owner any person interested in the proposed contract; and that all statements in said Response are true; and further, that such responder has not, directly or indirectly submitted this RFQ, or the contents thereof, or divulged information or data relative thereto to any association or to any member or agent thereof.

Mistakes in Submission

Corrections and withdrawal of the submitted offer will be permitted within the e-bidding software prior to solicitation (RFQ) closing due date and time.

Opening / Reading of Names

Unofficial Results will be made publicly available in the County's e-bidding software within an estimated time of sixty (60) minutes after the established closing due date and time.

Licenses

All Proposers must be properly licensed to do business in the State of South Carolina and must comply with the Code of Laws of South Carolina including Section 40-11-200, when applicable. The Proposer's company does not need to be based in South Carolina, but must be licensed to do business in the state of SC and specifically Horry County, if awarded a contract. **The successful proposer must have all appropriate business license(s) prior to contract execution, unless otherwise stipulated by law.** Proposers that fail to comply with this requirement, may subject their Statement of Qualifications to being rejected as non-responsive.

Independent Contractor Status

The contractor shall not, by entering into a contract become a servant, agent, or employee of Horry County, but shall remain at all times an independent contractor to the County. The contract(s) resulting from this RFQ shall not be deemed to create any joint venture, partnership, or common enterprise between the Contractor(s) and Horry County, and the rights and obligations of the parties shall not be other than as expressly set forth.

Insurance Requirements

The successful proposers shall provide proof of all required insurance(s), including worker's compensation, auto and general liability. Worker's compensation shall include a minimum limit of \$100,000 and commercial general liability coverage shall provide minimum limits of liability of \$5,000,000 per occurrence. This shall include coverage for premises/operations, products/completed operations, contractual liability, independent contractors, and vehicles used in premises/operations, and errors and omissions. Errors & omission coverage shall include a minimum limit of \$1,000,000 (per occurrence). Automobile Liability shall include a minimum of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage. The County of Horry shall be named as an additional insured on all liability policies and expressed on the Certificate of Liability Insurance. Insurance shall indemnify County against any and all claims arising under or as a result of the performance of the contract resulting from this solicitation. The County of Horry must be provided notice prior to cancellation, modification or reduction in limits of any stipulated insurance. It is the responsibility of the vendor/contractor to ensure that all subcontractors/sub consultants comply with all insurance requirements of this solicitation and the resulting contract.

Tax Information

Horry County Government is required to pay sales tax. Horry County tax rate is (8%) eight percent. Tax rate for the City of Myrtle Beach is (9%) nine percent.

Acceptance of Qualifications Submission Content

The contents of the qualifications submission of the successful proposer may become part of the contractual obligations, if a contract ensues. Failure of a successful proposer to accept these obligations may result in non-award.

Evaluation

This procurement will be conducted in accordance with all federal, state, and local laws, including, but not limited to, the Brooks Act.

Horry County reserves the right to reject any or all offers and further reserves the right to waive technicalities and informalities in submittals as well as to accept in whole or in part such proposal or submittals where it deems it advisable in protection of the best interest of the County. The County shall be the sole judge as to whether submittals submitted meet all requirements contained in this procurement.

Respondents may be requested to attend an interview / discussion with the Owner's RFQ Evaluation Team to confirm their Qualifications, introduce their teams, and answer additional questions. Respondents should limit their presentation to only essential information.

If it is decided that interviews / discussions are necessary, Horry County anticipates holding interviews / discussions with the top three (3) highest ranked firms via Video Conference/Telephone Call.

Contract Award

This procurement does not commit the County of Horry to award a contract, to pay any costs incurred in the preparation of the proposal or to procure or contract for good of services herein. Costs associated with proposal preparation, oral interviews, or presentations shall be the sole responsibility of the proposer. Horry County will not reimburse for costs associated with interviews, discussions or presentations.

Only those interested parties who respond to the RFQ may be considered for contract award. This is a qualifications-based selection. Award will be to the most responsible, responsive and most highly qualified engineering firm. Procedures for this procurement are identified in Part B, INSTRUCTIONS TO PROPOSERS, and Sections 1 through 4. A general scope of work is outlined within Section 2, OBJECTIVE & SCOPE OF SERVICES. Horry County prefers to award only one (1) contract from this RFQ, but reserves the right to make multiple awards if determined most advantageous to the County.

Contract Award will be made in compliance with all federal, state and local procurement regulations applicable to the funding source, including but not limited to The Brooks Act. The successful Proposer(s) will be expected to enter into a contract with Horry County similar to the sample contract attached to this solicitation. The resultant contract from this RFQ will incorporate by reference this RFQ document in its entirety and the successful proposer's response to this RFQ, as well as any negotiated terms and conditions. Contract award is contingent upon federal funding availability.

Following the Notice of Intent to Award, a specific project scope and scope of services will be defined for the Buck Creek and Simpson Creek Watersheds Hydrologic and Hydraulic Study.

Term of Contract

The term of this contract shall be for thirty-six (36) months from date of issuance of the Notice to Proceed.

Termination

Horry County and Provider shall have the right, upon sixty (60) days written notice, to terminate

this contract for cause or convenience.

Payment Terms

Payment Terms are Net thirty (30) days upon receipt of correct invoice for work/service performed during time frame indicated on invoice.

Contract Changes

Contract terms and conditions shall not be changed unless by Contract Change Orders. Change(s) must be deemed allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. Proposed Change(s) may require additional steps/documentation to ensure compliance with funding. Change(s) shall be agreed upon by both parties and recorded using the approved change order document. The change to method, price, or schedule of the work must be clearly identified for each specific change which may occur. Additional process information available within Horry County Procurement Regulation Subchapter 13-3: Post Award Issues.

Disadvantaged, Small, Minority and Women Owned Businesses (DBE/SBE/MBE/WBE)

Offerors must identify if they currently possess a certification from State of SC DBE Program.

Grievance

Any actual or prospective responder who feels aggrieved in connection with the solicitation or award of a contract may protest to the County Administrator. The protest shall be submitted in writing within fourteen (14) days after such aggrieved person knows or should have known of the facts giving rise thereto provided that grievance has been made in accordance with solicitation requirements. Please reference **Subchapter 15-3-Bid Protests of the Horry County Code & Regulation** at <http://www.horrycounty.org/portals/0/docs/procurement/CodeandReq.pdf>.

Freedom of Information Statement

Procurement information shall be a public record to the extent required by Chapter 4 of Title 30, Code of Laws of South Carolina (1976, as amended The Freedom of Information Act), with the exception that commercial or financial information obtained in response to a "Request for Qualifications" which is privileged and confidential if so designated by the proposer shall be protected from disclosure. Such information must be clearly marked as "**CONFIDENTIAL**" by those submitting responses for each section of information so affected. Privileged and confidential information is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information.

Legal / Litigation Statement

Disclose any litigation within the last five (5) years in which a claim has been made against any team member (individual or company) asserting a cause of action other than Employment issues or Contracts not related to your professional work. Explain the issues in these cases (or the fact there are none) as part of your submittal.

End of Section

2. OBJECTIVE & SCOPE OF SERVICES

I. Objective

The South Carolina Office of Resilience (SCOR) seeks a Hydrologic & Hydraulic Study for the Buck Creek and Simpson Creek Watersheds located in Horry County, SC., both of which are expected to experience significant growth in the near future. The Buck Creek Watershed includes the unincorporated community of Longs, SC which was identified as one of three focus areas for Horry County's Flood Resilience Master Plan. The Simpson Creek Watershed includes the Red Bluff Community, located north of the confluence of the Waccamaw River and Simpson Creek. Todd Swamp runs through a portion of the Red Bluff Community. This project area has several transportation corridors that are highly vulnerable to flooding including SC HWY 22, SC HWY 554, SC HWY 31, SC HWY 905, and SC HWY 9.

II. Scope of Services

Background: Since 2015, South Carolina has been impacted by three presidentially declared disasters: Hurricane Joaquin in 2015, Hurricane Matthew in 2016, and Hurricane Florence in 2018. Each disaster brought another Presidentially Declared Disaster Declaration and additional federal disaster recovery awards. The bulk of the damage from all three of these storms was not the wind and storm surge, but the eventual flooding from the rain falling over the State of South Carolina as well as runoff water from rivers, streams, and tributaries beyond for an extended period. The storms caused debilitating damage throughout South Carolina. Water and wind-damaged homes became unlivable. Those without the means to repair their homes were either forced to live in unsafe structures, relocate with relatives, or flee the disaster area. This strained the fabric of impacted communities – some of which had experienced damage from all 3 storms. The damage continued to be felt by the local economy as businesses lost customers and local government tax revenues diminished. One storm can cause all this destabilizing damage, three storms in four years have left many communities on the brink of collapse. Actions to mitigate future damages need to be made before the next storm strikes. Stability can be given to these people through mitigating future flood damage.

In 2018, HUD notified the State of South Carolina that it would receive an allocation of \$157,590,000 in CDBG-MIT funds, for the specific purpose of mitigation activities in the Most Impacted and Distressed (MID) counties from the 2015 Severe Storm disaster and the Most Impacted and Distressed counties from the 2016 Hurricane Matthew disaster.

Description of Project: Horry County intends to use a U.S. Housing and Urban Development (HUD) Community Development Block Grant-Mitigation (CDBG-MIT) grant to fund a Hydrologic & Hydraulic Study to identify current and future risks, determine flows and elevations of the existing and future conditions, complete a flood detention facility analysis to estimate performance characteristics, identify opportunities for increased

storage capacity, and evaluate potential flood mitigation solutions and improvements throughout both watersheds. This study will assess the existing stormwater systems, develop, assess, and prioritize projects, and establish an implementation strategy for such projects that will improve the drainage system and mitigate against future flooding throughout the Buck and Simpson Creek Watersheds. The CDBG-MIT funding is limited and those competing for this project must have a thorough and demonstrated understanding of the constraints and limitations associated with CDBG-MIT funding as well as with the inherent academic Social Vulnerability Index (SoVI) considerations associated with Low and - Moderate Income (LMI) communities. As such, the study will include a focus on specified areas within the watersheds identified as LMI areas.

The purpose of this study is to identify projects that will improve the drainage system and reduce potential flood impacts throughout the Buck Creek and Simpson Creek Watersheds. The study will identify and prioritize a list of projects that include traditional infrastructure projects and natural stormwater solutions that could include projects that remove existing structures from the landscape and reclaim natural areas. Each project must meet each of the following criteria:

1. Meet the following definition of a Mitigation Activity: Activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future flood events.
2. Meet one of two HUD national objectives:
 - a. LMI Benefit Area and/or
 - b. Mitigation Urgent Need
3. Benefit Cost Analysis (BCA) of greater than 1

While the HUD CDBG-MIT grant is specific to seventeen counties which have been identified as Most Impacted and Distressed (MID) in terms of damage, this study is not restricted to solutions within those designated counties. If the root cause is in a different geographic location, the study must address the cause and location. In addition, all downstream effects of projects must be evaluated regardless of geographic location.

The final study deliverable must have the highest level of credibility based upon data-drive, expert analysis. Therefore, the State seeks an experienced firm that is familiar with these types of projects and can work within the intent of the program. The selected firm will provide comprehensive data analysis which will stand intense public scrutiny, and the final product must be easily defensible due to its intellectual rigor. The outcome of this study will allow and enable further grant allocations to execute the projects.

The Scope of Work and Deliverables:

1. Within 370 days of contract award, the selected firm will provide the South Carolina Office of Resilience's Mitigation Department with a Hydrologic & Hydraulic Study that meets or exceeds the specifications outlined. The study will be posted on the South Carolina Office of Resilience website, where it must stand public scrutiny and be easily

- defensible. It must meet the watershed study requirements for CRS Element 450.b – WMP. The selected firm will present:
- a. A formal briefing;
 - b. Outlining the specifics of the priorities; as well as
 - c. Recommendations to successfully improve stormwater drainage systems, including improving the performance of flood detention facilities, and mitigate the flooding issues throughout the project area.
2. Provide a weekly email update and a monthly in person progress review to the South Carolina Office of Resilience’s Mitigation Department for the duration of the contract. It is expected that these updates will be brief.
 3. Conduct a workshop with Horry County municipal officials to identify known areas of flooding or stormwater drainage concerns. SCOR personnel will attend the workshop.
 4. Conduct at least two public meetings to allow residents located within the project area to identify areas flooding or stormwater drainage concerns. SCOR personnel will attend the public meetings.
 5. Conduct extensive research of all reports, studies, plans, land use, and other resources necessary to understand the existing conditions and contributing factors in the designated area. Provide a report and formal briefing of all stormwater drainage issues and historical flood related data gathered to the South Carolina Office of Resilience’s Mitigation Department. This requirement must be completed within 80 days of contract award. Only after this action is accepted can the firm submit an invoice for the first 20% of the overall contract. Should the firm fail to provide the quality or quantity of research and analysis required, or fail to execute within the established time standards, the firm will make acceptable revisions and then will be issued a letter of concern. Any subsequent failures to meet time or quality standards will result in the termination of the contract.
 6. Conduct a field inventory that will include surveying and documenting size, materials, conditions, and locations of existing drainage systems. Observe channel conditions, crossing structures, overflow routes, etc. Inspect stormwater detention facilities, road crossings, and other hydraulic structures. Analysis:
 - a. Develop current hydrologic and hydraulic models, including but not limited to:
 - i. Rainfall – runoff; and
 - ii. Overland and pipe network flow
 - b. Develop future conditions hydrologic and hydraulic models, which account for:
 - i. Future land cover.
 - ii. Future hydraulic setting.
 - iii. Changes in rainfall patterns.
 - iv. Problem area identification; and
 - v. Development of design criteria targets.
 - c. Calculate peak runoff volumes and rates using HEC-HMS or similar hydrologic program,
 - d. Develop inflow hydrographs for hydraulic modeling based on 15-minuted data,
 - e. Update topography and cross-section data based on ground survey work,
 - f. Incorporate 2-D GEO-HEC-RAS sections where appropriate and construct a River and Stream model, and
 - g. Run and calibrate the new GEO-HEC-RAS model to recent flood observations, as available.

- h. Provide a report and formal briefing to the South Carolina Office of Resilience's Mitigation Department. This requirement must be completed within 120 days of contract award. Only after this action is accepted can the firm invoice for the second 20% of the overall contract for a running total of 40%.
7. Flood Hazard Mapping
 - a. Develop flood maps and interactive GIS resources to identify flood areas,
 - b. Identify properties and public infrastructure which are prone to flooding
 8. Alternative Analysis and Findings:
 - a. Create an alternative analysis to remedy the problem areas.
 - b. Complete a detention facility analysis to estimate facility performance characteristics.
 - c. Create Summary Report of findings, including but not limited to:
 - i. GIS Mapping
 - ii. Summary of the existing drainage system.
 - iii. List of priority projects (see task 9, below)
 - iv. Documentation of methods; and
 - v. Technical data and related information.
 - d. Develop a Sensitivity Analysis to study the impact of higher flood frequency events.
 - e. Provide a preliminary report and formal briefing to the South Carolina Office of Resilience's Mitigation Department. This requirement must be completed within 240 days of project award. Only after this action is accepted can the firm submit an invoice for an additional 10% of the overall contract for a running total of 50%.
 9.
 - a. Itemize key flooding problems and potential mitigation solutions/components.
 - i. Develop exhibits
 - b. Prepare cost estimates for recommended improvements.
 - c. Conduct a Benefit-Cost Analysis on each of the prioritized projects and provide that dataset to the South Carolina Office of Resilience's Mitigation Department. The Benefit-Cost Ratio of recommended projects should be 1.0 or greater. The Benefit-Cost Analysis for each project will reflect the benefits achieved by conducting the project and its direct impact upon Low-to-Moderate Income communities. It is expected that **one** Benefit-Cost Analysis will be conducted for each prioritized project.
 - d. Conduct a comprehensive assessment of the impact of the determined projects on the Low-to-Moderate Income community. Provide a report and a formal briefing to SCOR.
 - e. Create a ranking system to prioritize projects.
 - f. Develop "what if" scenarios.
 - g. Attendance at meetings if needed, to explain concepts and proposals. Firm must be available for call meetings and in-person meetings within 24-48 hours.
 10. Conduct the final deliverable and all-encompassing briefing within 370 days of contract award. Only after this action is accepted can the firm submit an invoice for the remainder of the contract.
 11. The final written report and in-person briefing must include: A review of the historical problems associated with systematic flooding associated disasters throughout the Buck Creek and Simpson Creek Watersheds to include the impact of sustained rainfall draining through surrounding water basins.

12. A review of the planning parameters associated with this specific assessment and its direct tie to CDBG-MIT funding for mitigation.
13. A thorough literature study of previously published infrastructure and drainage management problems in the affected areas throughout the Buck Creek and Simpson Creek Watersheds to include all previous studies which directly impact the problem at hand.
14. Coordination with all applicable agencies and organizations who are stakeholders in the study area. As a minimum, this will include the US Army Corps of Engineers, any and all watershed management agencies or civilian equivalent, the State Department of Transportation, Department of Natural Resources, Department of Health and Environmental Control, Department of Parks Recreation and Tourism, South Carolina Department of Agriculture, the US Department of Agriculture, and county and local jurisdictions affected.
15. A comprehensive listing of all projects considered within the parameters of the strategy as well as a thorough review and definition of each screening criteria used to arrive at the recommended projects.
16. A prioritized list of recommended construction projects resulting from the analysis, each in terms of the highest probability of success against future disasters and their specified budget estimations.
17. A review and assessment of the environmental concerns associated with each project and an estimated timeline for the associated environmental clearance. See Exhibit 1.
- ~~18.~~ Based upon the final prioritized list of projects, a list of homes, including addresses, inside the study area that would be impacted by any recommended infrastructure construction projects and if they are recommended for potential buyout.
19. A qualitative and quantitative impact statement upon a Low-to-Moderate Income population that each construction project will resolve concerning future disasters.
20. A holistic risk assessment of each distinct proposed construction project.
21. Estimate the project delivery cost including all aspects of federal, state, and local permitting as well as all environmental considerations and concerns for each prioritized project.
22. An analysis of each prioritized project and the benefit it provides for Low-to-Moderate Income citizens throughout the Buck Creek and Simpson Creek Watersheds concerning future flood events.
23. A general topographic schematic of the proposed projects.
24. Geopolitical issues associated with the projects.

Should specialty engineering services be needed, the County may request additional services be added and administered through this contract. These services will be requested on an as-needed basis at a later date and provisions for these services need not be included in this RFQ.

End of Section

3. REQUEST FOR QUALIFICATIONS (RFQ) FORMAT

All Statements of Qualifications submitted must follow the same format. No exceptions to this format will be accepted. To be accepted for evaluation, the Statement of Qualifications format should address all required components in order. The intent of the format is to simplify the Statement of Qualifications preparation and evaluation processes and to ensure that all Statements of Qualifications receive the same orderly review.

I. PROPOSAL SUBMISSIONS

Submittals should be prepared in a timely and economical manner, providing a straight forward, concise description of the firms' ability to meet the requirements of the RFQ. Emphasis should be on completeness and clarity of content. The County does not desire voluminous qualifications submissions; therefore, the submission will be limited to Thirty-Five (35) pages (pdf file, electronic submittal). Information should be formatted as requested, in the order listed below. If the Proposer fails to provide the requested information, the Proposal may be deemed non-responsive and may not be further considered.

II. RFQ COMPONENTS

“Required Forms”, as described in Section 5, do not count towards the Thirty-five (35) page SOQ limit. All Statements of Qualifications (SOQ) must include the listed components in the following order:

- A. **Letter of Interest:** The letter of interest should be no longer than one (1) page and shall contain the following items:
- An expression of the Prime Firm’s interest in being selected for the project.
 - A statement confirming the commitment of key personnel identified in the submittal to the extent necessary to meet Horry County’s quality and scheduled expectations.
 - Provide the name of the Prime Firm Principal, Officer of the Firm or Project Manager responsible for this contract and has authority to sign the contract for the firm.
 - A summary of key points regarding the Prime Firm’s qualifications
 - Signing the letter of interest constitutes authorization of the Firm to submit qualifications for the purpose of negotiating and entering a contract with Horry County.
 - Certification of authorized submitter that information contained within is correct by including: “I certify that the information included within this document, is to the best of my knowledge, correct as of the date indicated”.
- B. **Project Organization Chart/Staffing Diagram:** Limited to one (1) page. This chart must include the names of the key individuals selected for this project, their roles on the project, the names of the Firm or Company by which they are employed, and the lines of communication, to include functional structure, levels of management and reporting relationships for Key Individuals, and major functions to be performed in managing the project. It shall also indicate the people who will be points of contact with the Horry County Project Manager.
- C. **Qualifications for key individuals:** List all licenses and certifications for each key individual.

- D. **Names and qualifications for other key individuals** that are considered critical to the success of this project in addition to those identified above. Qualifications should include information on experience related to similar projects and previous project work; list certifications and licenses for other key individuals.
- E. **Professional Accomplishments, Experience, and References:** Provide a list of similar flood mitigation studies performed within the last 5 years with an Executive Summary. Include staff involved in the assessment. Include a project description that demonstrates the firm's capabilities in the delivery of services that are similar to those that Horry County is requesting. For each project provided as a reference, include the name / contact information of the client organization and client project manager.
- F. **Project Approach and Schedule:** Provide the County with information about how the company plans to approach, manage, and complete the Project. This should include specific details as it applies to this particular project for the following: technical approach and management, methodology, schedule of deliverables, quality assurance and control, and this section will need to explain how the respondent will attain successful completion of the project. This section should be structured as the scope of work for the services needed to complete this project.
- G. **Workload:** The Firm must provide a chart indicating the present workload of all key personnel to include all active projects (concurrent projects with other entities such as cities, other state agencies, counties, private sector) and their percentage availability for this project. Additionally, all proposals must clearly list the percentage of work for the prime Firm and sub-firm(s) that will be performing work as part of the project.

End of Section

4. EVALUATION / SELECTION PROCESS

The evaluation of qualifications submissions will be in accordance with federal, state and local laws and this Request for Qualifications. The evaluation process shall determine the qualifications of the submitter to provide relevant services as requested. **Cost is NOT a factor in the ranking of firms to provide services herein. DO NOT include any reference to consultant costs in the RFQ response. Any RFQ response with any discussion of cost will be disqualified.** Firms are advised that this evaluation and selection process is a competition and not simply a prequalification. Note that all contracts will be based on a negotiated fee based on the final approved project scope.

Staff will first review all written responses, which will result in a list of fully qualified respondents. The following criteria are weighted as shown below and shall be used by the Evaluation Team for the evaluation of Statements of Qualifications received:

#	<u>Evaluation Criteria</u>	<u>Weight</u>
1.	Project Approach and Schedule	45
2.	Professional Qualifications and Project Team	35
3.	Professional Accomplishments, Experience and References	30

- **Project Approach and Management (Max. 45 Points)**
The Statements of Qualifications will be evaluated on the basis of the firm's project approach to providing the professional services requested, and past performance on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules.
- **Professional Qualifications and Project Team. (Maximum 35 Points)**
The Statement of Qualifications will be evaluated based on the firm's professional qualifications and project team, necessary for satisfactory performance required.
- **Professional Accomplishments, Experience, and References (Max. 30 Points)**
The Statements of Qualifications will be evaluated on the basis of demonstrated successful professional project accomplishments, specialized experience and technical competence in the type of work required for projects of similar technical nature, complexity, and time constraints, and for clients that are similar in size, location, and type to Horry County. Horry County reserves the right to check the references provided, and known references not provided by the vendor. Horry County reserves the right to contact all references to obtain information without limitation and regardless of the vendor's performance on the listed jobs.

After initial evaluation of all statements of qualifications (SOQ), the evaluation team will meet to unanimously select the firms that are most qualified based on the information submitted. A Notice of Competitive Range shall be issued in BidNet. Those respondents listed to be in the Competitive Range may be contacted for interviews/discussions.

Informal interviews and/or discussions shall be conducted, at the discretion of the County, for selected respondents determined to be the best qualified based upon the evaluation of the submitted responses, as per the requirements of the SC Code of Laws Title 11 – Chapter 35; Section 11-35-3220 (4): Qualifications based selection procedures.

Once interviews/discussions are complete, the evaluation team shall evaluate each of the firms interviewed in accordance with South Carolina Consolidated Procurement Code Section 11-35-3220 (5) (a), and the Brooks Act. After the evaluation, the team will meet to unanimously rank the interviewed firms in priority order. Once finalized, notice of selection and ranking will be issued to all proposers in BidNet.

It is the intention of the evaluation team to select the vendor most qualified to provide the services as indicated herein.

End of Section

5. SUBMITTAL CHECKLIST AND REQUIRED FORMS

- Statement of Qualifications submittal meeting the requirements of Section 3, REQUEST FOR QUALIFICATIONS FORMAT, RFQ Components (not-to-exceed THIRTY-FIVE (35) pages) (*No Sample Form Provided*)

REQUIRED FORMS

***Will not count against the maximum THIRTY-FIVE (35) page limit
Separate Download file in BidNet***

- Statement of Qualifications Certification (*Sample Provided*)
- Legal / Litigation Statement (*Sample Provided*)
- Responsibility Statement (*Sample Provided*)
- References (*Sample Provided*) - Provide a list of References who have personal knowledge of the prime firm and the sub-firms previous performance. Provide three (3) client references each for both the prime firm and the sub-firm. The references must include verified addresses, email addresses and telephone numbers, contact persons, and a brief description of services that have been provided similar to those described by Horry County for this project
- Non Collusion Affidavit (*Sample Provided*)
- Drug Free Workplace Form (*Sample Provided*)
- Certification of Restrictions on Lobbying (Anti-Lobbying Form) (*Sample Provided*)
- Certification Regarding Debarment, Suspension And Other Responsibility Matters Form (Debarment Form) (*Sample Provided*)
- Copy of Business License to do business in South Carolina and/or Horry County (*No Sample Provided*)
- Sample Certificate of Insurance (*Sample Provided*)
- IRS W-9 Form (signed within 3 months of the submittal date) (*Sample Provided*)
- I-312 Nonresident Taxpayer Affidavit (*Sample Provided*)

End of Section

6. CONTRACT DOCUMENTS

- Sample Notice of Intent to Award
- Sample Professional Services Contract
- Contract Provisions for Non-Federal Entity Contracts Under Federal Award
- Sample Notice to Proceed

NOTICE OF INTENT TO AWARD

TO: Name of Firm
Address, City, State, Zip Code

PROJECT DESCRIPTION: **RFQ # 20XX-XX-XXX**
 Name of Project

The OWNER has considered the RFQ submitted by you for the above described solicitation dated
XXXXX

You are hereby notified that your RFQ has been accepted.

You are required by the Information for Bidders to execute the CONTRACT AGREEMENT and
furnish the required (*as applicable per solicitation*) CONTRACTOR’S PERFORMANCE BOND, PAYMENT
BOND and CERTIFICATES OF INSURANCE within TEN calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within TEN (10) days from the
date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER’s
acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled
to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF INTENT TO AWARD to the
OWNER, at that time a NOTICE TO PROCEED/ CONTRACT will be issued.

Dated this __ day of, _____ 20__.

HORRY COUNTY, OWNER

BY: _____

TITLE: _____

PROFESSIONAL SERVICES CONTRACT No. _____

This Contract for Professional Services (“**Contract**”), with an effective date of _____, is hereby entered into between **HORRY COUNTY**, a political subdivision of the State of South Carolina, whose Administrative Office is at 1301 Second Avenue, Conway, SC 29526 (“**County**”); and _____ (“**Provider**”), a corporation organized and existing under the laws of the State of _____ and authorized to conduct business in the County of Horry and in the State of South Carolina.

1. GENERAL TERMS OF CONTRACT

1.1. Headings: Headings to paragraphs in this Contract shall not interpret or alter the meaning of the words in the respective paragraph, nor any other provision of this Contract.

1.2. Time of Performance: The timely performance by **Provider** of the services described in this Contract is of the essence, and shall commence on the Effective Date. Failure to perform timely, except for cause occasioned by Act of God, shall permit County to declare this Contract voided and of no further effect.

1.3. Arbitration: This contract is not subject to arbitration.

1.4. Dispute Resolution: If the parties hereto cannot settle any difference arising between them without litigation, any such litigation shall take place in the South Carolina Circuit Court in Conway, South Carolina.

1.5. Merger, Amendment, and Waiver: This Contract contains all the terms of all agreements, oral or written, between the parties, and is the only document containing all such terms. This Contract merges all prior contracts, agreements, and understandings

between **County** and **Provider** concerning the scope of work described herein. The Scope of Services described in this Contract, and all other terms of this Contract, shall not be amended or varied except by a written instrument signed by a duly authorized signatory of **County** and **Provider**. Forbearance by **County** from enforcing the strict terms of this Contract shall not be a waiver of any other term of this Contract, nor shall such forbearance entitle **Provider** to rely upon such forbearance in the event of another similar breach by **Provider** of the terms of this Contract. Any variance to the terms of this Contract shall be attached as an Exhibit hereto, and shall have effect as from the effective date thereof as set forth on such Exhibit.

1.6. Compliance with EEOC and other State and Federal Laws: To the extent set forth in the respective statutes, **Provider** shall comply with the provisions of:

1.6.1. Titles VI & VII of the Civil Rights Act of 1964;

1.6.2. Age Discrimination in Employment Act of 1967;

1.6.3. Title I of the Americans with Disabilities Act of 1990;

1.6.4. Equal Pay Act of 1963;

1.6.5. Fair Labor Standards Act of 1938;

1.6.6. Immigration Reform and Control Act of 1986;

1.6.7. South Carolina Payment of Wages Act, S.C. Code §§ 41-10-10 *et seq.*;

1.6.8 South Carolina Worker's Compensation Act, S.C. Code §§ 42-1-10 *et seq.*;

1.6.9 South Carolina Illegal Immigration Reform Act, including without limitation Chapters 14&29, Title 8, and Chapter 8, Title 41, S.C. Code of Laws;

1.6.10 Part 681, Title 16 of the Code of Federal Regulations, Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003; the South

Carolina Act 190 of 2008; Financial and Identity Theft Protection Act; and the Horry County Privacy / Identity Theft Policy.

Provider, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Provider shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Provider to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County or aggrieved party deems appropriate.

1.7. By entering into this Contract, **Provider** affirmatively warrants that **Provider** is currently in compliance with such laws, and further warrants that during the term of this Contract, **Provider** shall remain in compliance therewith.

2. SCOPE OF SERVICES:

2.1. **Provider** shall perform those tasks set forth in Exhibit “A”, attached hereto and incorporated herein by reference. The anticipated scope of work shall be considered the minimum service to be provided under this Contract. If any term contained in Exhibit “A” shall conflict with any of the terms of this Contract, then such term as set forth on Exhibit “A” shall not bind **County**.

2.2. All services to be performed by **Provider** under this Contract shall be performed within the term set forth on Exhibit “A”, not to exceed five (5) years.

3. PAYMENT FOR SERVICES:

3.1. The costs of services are set forth in Exhibit “B” of this Contract. The total projected cost of \$_____ shall be a guaranteed maximum price (GMP) for the services to be provided. **Provider’s** invoice to County will be on a basis of net 30 days after receipt by **County** of invoice. [NOTE: there are other ways of structuring cost and payment].

3.2. Services not included in the Scope of Services constitute additional charges to **County**, at rates and intervals to be agreed upon between **County** and **Provider** in a written Amendment executed by both parties prior to the performance of such services.

4. WARRANTIES OF PROVIDER AND COUNTY:

4.1. County warrants that:

4.1.1. **County** has the lawful authority required under State law and **County's** Ordinances to enter into and perform this Contract;

4.1.2. **County** shall not offer employment to any employee of **Provider** for a period of two (2) years after the termination, except for cause, of this Contract.

4.2. Provider warrants that Provider has:

4.2.1. All necessary licenses and consents required for **Provider** to enter into and fully perform the Scope of Services set forth on Exhibit "A", and is in good standing in the State of South Carolina;

4.2.2. All required insurances, including Worker's Compensation Insurance and General Liability Insurance, to indemnify County against any and all claims arising under or as a result of the performance of this Contract, in at least the following amounts (or in those amounts, if specified, as set forth in **County's** Invitation to Bid or Request for Proposals, that formed the basis of the Scope of Services of this Contract):

Worker's compensation shall include a minimum limit of \$100,000 per accident and comprehensive general liability coverage shall provide minimum limits of liability of \$1,000,000 per occurrence Combined Single Limit for Bodily Injury and Property Damage. This shall include coverage for premises/operations, products/completed operations, contractual liability, errors and omissions (professional liability), independent contractors and vehicles used in premises/operations. Insurance shall indemnify **County** against any and all claims arising under or as a result of the

performance of the contract. The **County** shall be named as an additional insured on all liability policies. The **County** must be provided with notice prior to cancellation, modification or reduction in limits of any stipulated insurance.

4.2.3. No conflict of interest with any other contract with a third party that might cause a claim to arise against County by the entry into or performance of this Contract by **Provider**.

4.3. Provider warrants that Provider shall throughout the term of this Contract:

4.3.1. Perform all tasks required under the Scope of Services with a degree of skill and care of reputable members of the same profession in South Carolina;

4.3.2. Maintain all insurances required by law or this Contract, including worker's compensation, premises liability, general liability, and professional malpractice coverage in those amounts set forth herein;

4.3.3. Properly withhold from all wages, commissions, salaries, and fees paid by **Provider** to third parties or employees, agents, or sub-contractors of **Provider**, all amounts required by State or Federal law to be withheld for or on account of taxes, social security payments, or other withholdings mandated by law or regulation;

4.3.4. Ensure that any third party, employee, agent, or sub-contractor of **Provider** shall comply with the terms of this Contract concerning employment discrimination, insurances, and withholdings, so far as concerns this Contract;

4.3.5. Comply with all lawful demands made pursuant to the South Carolina Freedom of Information Act, S.C. Code § 30-4-10 *et seq.* or the Federal Freedom of Information Act, 5 U.S.C.S. § 552;

4.3.6. Make no offer of employment to any **County** employee for a period of two (2) years after the termination of this Contract.

5. OWNERSHIP OF PROJECT MATTER: Unless otherwise agreed between **County** and **Provider**, and approved by County's attorney:

5.1. All plans, reports, surveys, and other professional work product of **Provider** concerning this Contract (but not internal working files, drafts, memoranda, and equipment) shall become the property of **County** during and at the completion or termination of this Contract;

5.2. All materials supplied or loaned by **County** to **Provider** during the term of this Contract shall remain the property of **County**;

5.3. All intellectual property provided to **County** by **Provider** and originating from this Contract shall become and remain the property of **County**, and **Provider** shall not, without the written consent and license from **County**, use such intellectual property for another commercial purpose;

5.4. **County** shall not become the owner, assignee, or licensee of any standard routine, programs, development tools, techniques, interfaces, texts, or other work existing prior to the date of this Contract that may be used by **Provider** in providing the services or intellectual property subject to this Contract, except as may be specifically agreed in writing between the parties.

6. EARLY TERMINATION OF CONTRACT: **County** and **Provider** shall have the right, upon sixty (60) days written notice, to terminate this Contract, and thereafter **County** shall have no obligation to pay for services provided to **County** except up to the effective date of

termination of this Contract. In the event **Provider** exercises its right to terminate this Contract, **Provider** will not cease services for a reasonable period of time, not to exceed One-Hundred Twenty (120) days, to allow **County** to procure another provider.

7. INDEPENDENT CONTRACTOR STATUS: **Provider** shall not, by entering into this Contract, become a servant, agent, or employee of **County**, but shall remain at all times an independent contractor to **County**. This Contract shall not be deemed to create any joint venture, partnership, or common enterprise between **Provider** and **County**, and the rights and obligations of the parties shall not be other than as expressly set forth herein.

8. NOTICES TO PARTIES: All notices to each party to this Contract, except routine notices of performance of the Scope of Services during the Contract term, shall be in writing, and sent as follows:

8.1. To County:

8.1.1.

with a copy to:

Horry County Attorney
1301 Second Avenue
Conway, SC 29526
(Tel: 843-915-5270; fax 843-915-6270)

8.2. To Provider:

8.2.1.

with a copy to:

8.3. Form of Notice: All notices required or permitted under this Contract shall be effective:

8.3.1. On the third (3rd) business day after mailing by depositing the notice in the United States Mail, certified mail, return receipt requested, postage prepaid, addressed as set forth above; or on the day of receipt of such notice (whether by mail, courier, hand delivery, or otherwise), whichever is the earlier date of receipt; or

8.3.2. On the first day after receipt of a facsimile transmission of the written notice, with delivery confirmed, provided that such notice is also thereafter sent by first class mail as set forth above.

9. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT: The **Provider** will indemnify and hold harmless the **County** and its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, injury to or destruction of tangible property, including the loss of use resulting therefrom, and is caused by any negligent or willful act or omission of the **Provider**, and anyone directly or indirectly employed by it or anyone for whose acts any of them may be liable. In any and all claims against the **County** or any of their agents or employees by an employee of the **Provider**, and

anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way to the amount or type of damages, compensation or benefits payable by or for the **Provider** under the workman's compensation acts, disability benefit acts, or other employee benefit acts. The obligation of the **Provider** under this paragraph shall not extend to the liability of the **County** or its agents or employees arising out of reports, surveys, change orders, designs, or specifications that are un-attributable to the **Provider**.

10. ASSIGNMENT: **Provider** shall not assign, permit the assumption of or in any manner transfer any interest in this Contract, or any part thereof, without the prior written consent of the **County**. If **Provider** assigns, permits the assumption of or in any manner attempts a transfer of its interest in this Contract, **County**, in its sole discretion, may declare this entire Contract null and void.

IN WITNESS WHEREOF, the parties have executed this Contract in three (3) originals, each of which shall be deemed to be an original on the Effective Date first above written.

Provider:

By (signature): _____

Date: _____

Print Name: _____

Title: _____

Witness: _____

County:

By (signature): _____

Date: _____

Print Name: _____

Title: _____

Witness: _____

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Community Development Block Grant Required Contract Provisions

Patent Rights (24 CFR 85.36(i)(8)) - No discovery or patent rights arising from any discovery or invention which arises or is developed in the course of or under this contract shall be exercised by or on behalf of the contractor.

Copyrights (24 CFR 85.36(i)(9)) - No reports, handbooks, documents, maps, data, or pamphlets produced in whole or in part under this contract will be the subject of any application for copyright by, or on behalf of, the contractor.

Access to Records (24 CFR 85.36(i)(10)) - The municipality/county, Office of State Planning, US Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts, and transcriptions.

Records Retention (24 CFR 85.36(i)(11)) - All records in the possession of the contractor pertaining to this contract will be retained by the contractor for a period of four (4) years from closeout of the grant by the grantee.

Environmental Compliance (24 CFR 85.36(i)(12)) - Contracts must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (H)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15) prohibiting the use of facilities included on the EPA List of Violating Facilities. See Clean Air and Water Provisions in Attachment 9.

Energy Efficiency (24 CFR 85.36(i)(13)) - The project must be in compliance with the mandatory standards and policies relating to energy efficiency which are contained in the Energy Policy and Conservation Act (P.L. 94-163).

Breach of Contract (2 CFR 200, Appendix II) - Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Termination (2 CFR 200, Appendix II) - All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Equal Employment Opportunity - Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with

Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 19641965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60,

"Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) - When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) - Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rights to Inventions Made Under a Contract or Agreement - If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under

Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Horry County Department of Community Development Section 3 goal is that 30% of the aggregate number of full-time new hires by the contractor must be Section 3 residents; and when possible, attempt to award at least 10% of the total dollar amount of contracts to Section 3 business concerns.

The following bid conditions apply to this Community Development Block Grant (CDBG) assisted contract.

Submission of a bid/proposal by a prospective Contractor shall constitute full acceptance of these bid conditions.

1. DEFINITION: Section 3 is a policy mandated by the United States Congress. It refers to the third section of the Housing Act of 1968, as amended by section 915 of the Housing and Community Development Act of 1992. As a condition of the County receiving CDBG funds, the County must comply with the requirements of 24 CFR 570.607 (b) when awarding federally funded contracts. The following are additional applicable definitions:

A) *Low-income person*: families (including single persons) whose gross household incomes do not exceed 80% of the area median income;

B) *Very low-income person*: families (including single persons) whose gross household incomes do not exceed 50% of the area median family income;

C) *Section 3 business concern*: a business entity formed in accordance with State law wherein:

(a) 51% or more ownership by Section 3 residents, or

(b) 30% or more of the full-time employees of the business are Section 3 residents,
or

(c) the business provides evidence of a commitment to subcontract in excess of 25% (of the dollar award of all subcontracts to be awarded) to businesses that meet the description of Section 3 business concerns in sections (a) or (b) of this paragraph.

2. POLICY: It is the policy of the Horry County Community Development Office to require its contractors to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The County implements this policy through the CDBG Office by awarding federally funded CDBG contracts to contractors, vendors, and suppliers, to create employment and business opportunities for residents of the Conway Housing Authority, Myrtle Beach Housing Authority, and for other qualified low-and very low-income persons.

The policy shall result in a reasonable level of success in the recruitment, employment, and utilization of Housing Authority residents and other eligible persons and business by contractors working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies.

3. SECTION 3 OBLIGATION: Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the County to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to very-low and low-income persons; particularly to recipients of government housing assistance.

In accordance with the regulation, residents and businesses concerned seeking Section 3 preference shall certify, or submit evidence to the contractor or subcontractor, verifying that they meet the definitions of Section 3 status. Some examples include: proof of residency in a public housing authority, proof of federal subsidies for housing, food stamps, or unemployment benefits, and payroll data or other relevant business information.

4. COMPLIANCE: The 30% hiring goal and 10% contracts awarded goal are the only safe harbors whereby a contractor will have complied with Section 3. If the two goals above cannot be met by the contractor, documentation should be submitted explaining why those numerical goals could not be met, including a 'good faith effort' providing advertisement for those positions. Recommended activities to demonstrate additional efforts are listed in 24 CFR Part 135.40.

Failure to carry out the Section 3 policy and the Section 3 business obligation, as set forth above, shall constitute a breach of contract which may result in termination of the contract or such other remedy as deemed appropriate.

5. AVAILABLE SECTION 3 RESIDENTS: The CDBG office has on file a list of residents, including telephone numbers, who are Section 3 residents that are interested in working on federally funded programs. In addition, the Employment Securities Commission (ESC) can be contacted for a list of unemployed workers who fit the new hire job description. Lastly, a good faith effort for the attempt to hire a Section 3 resident and/or a Section 3 business can be established through documented efforts.

Horry County CDBG Project Section 3 Compliance Form
(To be completed by Contractor after contract amount is determined)

Contractor/Firm name:

Project name:

Bid/Contract amount: \$

Project information:

1. Are your CDBG bid amounts/contracts greater than \$200,000? (check one)

- Yes No

2. Does the project involve any subcontracts that exceed \$100,000? (check one)

- Yes, Section 3 applies to a subcontract award that will exceed \$100,000

If Yes, subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as the prime contractor.

- No, Section 3 does not apply to any subcontractor awards or subcontract awards will be less than \$100,000.

3. Indicate the efforts made to direct the employment opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very-low income persons; particularly those who are recipients of government assistance for housing. (check all that apply)

- Attempted to recruit low-income residents through local advertising media or signs prominently displayed at the project site.
- Picked up the list at the Community Development Office, 1515 4th Avenue, Conway, SC 29526 in order to contact Section 3 worker(s) by telephone.
- Contacted the ESC for unemployed worker list who fit the job description and who are or will be interviewed to make sure they qualify as a Section 3 resident.
- No new hires expected between bid submission and contract completion.

4. Attach a listing of all employees to this form with bid submission.

Contractor Signature:

Print Name:

Date:

Section 3 New Hire Report Instructions

APPLICABILITY: Section 3 New Hire Report documents all new hires and indicates whether Section 3 Residents were hired to fill any available positions. Use the definition of Section 3 Residents below for determining the status of all new employees.

Reporting Responsibilities: This form must be completed by all firms working on a Section 3 Project. The form must be completed each time certified payroll reports are sent with the AIA pay request.

SECTION 3 RESIDENTS:

Section 3 residents are those individuals living in Horry County, SC who are one or more of the following:

- (1) residents of Conway Housing Authority
- (2) have a Section 8 voucher with Myrtle Beach Housing Authority
- (3) whose median gross household income is 80% or less of the area median income.
In Horry County, the maximum income for each household size is shown

Area Median Income	FY 2016 Category	Household Size							
		1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
\$50,900	Extremely Low (30%)	\$11,880	\$16,020	\$20,160	\$24,300	\$27,500	\$29,550	\$31,600	\$33,600
	Very Low (50%)	\$17,850	\$20,400	\$22,950	\$25,450	\$27,500	\$29,550	\$31,600	\$33,600
	Low (80%)	\$28,500	\$32,600	\$36,650	\$40,700	\$44,000	\$47,250	\$50,500	\$53,750

Section 3 requires that Section 3 Residents have the opportunity to apply to all available full time positions, whether temporary, seasonal, or permanent. The types of jobs include construction, administrative, management, services, etc.; any and all jobs that arise in connection with construction or rehabilitation activities. As part of Horry County’s Section 3 procedures, firms are required to provide a list of current employees and report the number of employees hired in connection with a Section 3 Project.

Section 3 New Hire Report Instructions continued:

1. Enter the name and address of the contractor or subcontractor submitting this report.
2. Enter your federal identification number.
3. Enter the dollar amount of your contract.
4. Enter the contact person.
5. Enter the contact person telephone number where he/she could be reached.
6. Enter the dates of reporting.
7. Enter the date that the report was submitted.
8. The program code is entered.
9. Enter ‘CDBG.’

Part 1: Employment and Training:

Column A contains various job categories. Please pick an appropriate title for your new hires for the reporting period. If their job title is not listed, please put in 'other' and give the job title.

Column B – please insert the number of new hires.

Column C is the number of new hires that are Section 3 residents.

Column D is the percentage of all staff hours of new hires that are Section 3 residents.

Column E is the percentage of the total staff hours worked for Section 3 employees and trainees, including new hires, connected with the contract.

Column F is the number of Section 3 residents that were employed and trained in connection with this contract or subcontract.

End of Section

NOTICE TO PROCEED

Date: month/day, 202X

To: **Contractor**
One Road Conway SC, 29526

Project: **Title of Project IFB #XXX-XX-XXX**

You are hereby notified to commence WORK in accordance with the Agreement dated month day year, on or before month day year, and you are to complete the WORK within **XXX** consecutive calendar days thereafter. The date of completion of all WORK is therefore month day year.

OWNER

By: _____

Title: Assistant. County Administrator

EXHIBIT 1

Benefit-Cost Ratio

The benefit-cost ratio is defined as the benefit divided by the estimated cost. This ratio is an expression of the money saved by implementing a project as opposed to the costs occurred by not implementing the project. A ratio less than one means the project will cost more to implement than it will save. Any ratio equal to 1 or higher justifies the project from a pure financial viewpoint.

The ratios are then sorted by quartile to award points as shown in the table below. This will weaken the cost-benefit ratio defined by a single value to account for the larger picture of the project, account for error from assumptions and methodologies and be appropriate for the stage of most projects.

<i>Benefit-Cost Ratio Quartile</i>	<i>Points</i>
0-25%	0
25-50%	7
50-75%	13
75-100%	20

Example BCA Quartile Worksheet

	Project ID	Project Name	Benefit	Cost	BCA	Score	
1 3 4	20	350	Project Example 12	\$707,152	\$3,419,000	0.2	0
	14	428	Project Example 99	\$1,279,630	\$2,554,930	0.5	0
	7	16	Project Example 52	\$4,443,738	\$7,232,993	0.6	0
6 7 8 9 10	22	74	Project Example 81	\$3,419,958	\$4,411,000	0.8	0
	13	88	Project Example 40	1410000	1570000	0.9	0
	6	96	Project Example 89	\$1,898,125	\$1,769,133	1.1	7
	2	38	Project Example 65	\$3,288,705	\$1,984,941	1.7	7
	9	83	Project Example 10	\$8,290,905	\$4,904,555	1.7	7
11 13 14 15	18	199	Project Example 83	\$2,142,944	\$1,266,000	1.7	7
	5	64	Project Example 19	\$6,427,759	\$2,543,328	2.5	13
	3	54	Project Example 3	\$6,030,940	\$2,095,395	2.9	13
	17	198	Project Example 48	\$2,239,562	\$715,000	3.1	13
16 17 18 19 20	4	55	Project Example 72	\$3,562,620	\$894,070	4.0	13
	11	85	Project Example 50	12800000	3090000	4.1	20
	10	104	Project Example 12	\$6,424,352	\$1,490,188	4.3	20
	16	197	Project Example 20	\$5,704,992	\$1,004,400	5.7	20
	1	19	Project Example 7	\$408,932,721	\$14,138,490	28.9	20