

**SCOR CONTRACT
PROFESSIONAL CONSULTANT SERVICES – APPRAISER**



AGENCY: SOUTH CAROLINA OFFICE OF RESILIENCE

PROJECT NAME: CITY OF BENNETTSVILLE BUYOUT

PROJECT NUMBER: BP-21-3401-01

APPRAISAL CONSULTANT: Integra Realty Resources Charleston

ADDRESS: 11 C Isabella Street, Charleston SC 29403

In consideration of the mutual covenants and obligations set forth herein, the Agency and Appraisal Consultant (hereinafter jointly referred to as the "parties") agree to the following:

A. CONTRACT DOCUMENTS

1. Documents forming a part of this contract, are in order of precedence
 - a. This SCOR Contract, Professional Consultant Services – Appraiser.
 - b. Appraisal proposal describing services to be provided for this project, the associated billing rates for the Appraiser and its consultants, and the project Reimbursable items. \$475.00 for Current Market Value appraisals and \$400.00 for Retroactive/additional Appraisals.
 - c. Supplemental Conditions, attached if applicable. N/A
 - d. The following other documents: N/A
2. The contract is the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, whether written or oral.

B. REPRESENTATIVES

1. Agency's Representatives

South Carolina Office of Resilience (SCOR) is the Agency and designates the individual listed below as its Representative, which individual shall have the authority to bind the Agency with respect to all matters regarding the Contract and requiring the Agency's approval or authorization.

NAME: Eric G. Fosmire

TITLE: Chief of Staff and General Counsel

ADDRESS: 632 Rosewood Drive Columbia SC 29201

TELEPHONE: 803-822-9580

FAX: 803-771-2887

EMAIL: Eric.Fosmire@scor.sc.gov

The term "Agency" means the SCOR or the SCOR's Designated Representative.

2. Consultant's Representatives

Consultant designates the individual listed below as its Consultant's Representative, which individual shall have the authority to bind the Consultant with respect to all matters regarding the Contract and requiring the Consultant's approval or authorization:

NAME: Cleveland A. Wright, Jr., MAI

TITLE: Senior Managing Director

ADDRESS: 11-C Isabella Street

TELEPHONE: 843-718,2125, ext. 2

FAX: 843-718-2058

EMAIL: cwright@irr.com

The term "Consultant" means the Appraiser or the Appraiser's Designated Representative.

"Indemnitees" means the State (including its instrumentalities, agencies, departments, boards, and political subdivisions), the contractor, the subcontractor at all tiers, and the officers, agents and employees of all the forgoing.

F. APPRAISAL SERVICES

1. The Consultant shall be fully responsible for coordinating all services under this Contract regardless of whether performed by its own employees or by subcontractors hired by Consultant to perform a portion of its' services.
2. The Consultant shall be responsible to the Agency for the services furnished to the Consultant by any subcontractor to the same extent as if the Consultant had furnished the service itself. Consultant also agrees to coordinate and resolve any inconsistencies in its work and the work of its subcontractors. All of Consultant's contracts with subcontractors shall be in writing, signed by both parties, and shall include the following provision: "The Agency is intended to be a third-party beneficiary of this Contract."
3. The Consultant shall prepare and distribute conference memoranda, meeting minutes, summaries of telephone conversations, documentation and reports as required by the Agency to maintain a comprehensive record. The State Project Number and Name as noted above shall be shown on all documents.
4. Any reference in the Contract Documents to the Consultant taking action or rendering a decision with a "reasonable time" or "reasonable promptness" is understood to mean no more than ten (10) days, unless otherwise specified in the Contract Documents or otherwise agreed to by the parties.
5. Work Product Documents
 - a. The Work Product to be accomplished and submitted to the Agency shall be as defined in the Contract Documents.
 - b. The Consultant shall submit to the Agency properly completed documents in the number and form requested for review and approval.
 - c. The Agency approval of all documents or other matters required herein shall not relieve the Consultant of their professional duty of care in the preparation of the Work Product for compliance with the requirements of applicable statutes, regulations, codes, and industry standards.
6. Additional Services
 - a. The Consultant may provide Additional Services after execution of this Contract without invalidating the Contract. Except for services required due to the fault of the Consultant, any Additional Services provided shall entitle the Consultant to compensation pursuant to negotiations and an appropriate adjustment in the Consultant's schedule.
 - b. The Consultant shall not proceed to provide Additional Services until the Consultant receives the Agency's written authorization.

G. AGENCY'S RESPONSIBILITIES

1. The Agency shall review the Work Product and shall submit its written approval to the Consultant.
2. The Agency shall provide prompt written notice to the Consultant if the Agency becomes aware of any fault or defect, including errors, omissions or inconsistencies in the Consultant's Work Product.
3. The Agency shall include the Consultant in all communications that relate to or affect the Consultant's services or professional responsibilities. Communications by and with the Consultant's subcontractors shall be through the Consultant.

H. CLAIMS AND DISPUTE RESOLUTION

1. All disputes, claims, or controversies relating to the Contract shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Consultant agrees that any act by the State regarding the Contract is not a waiver or either the State's sovereign immunity of the State's immunity under the Eleventh Amendment of the United States Constitution. As used herein, the phrase "the State" includes the Agency, any governmental entity transacting business with the Consultant pursuant to the Contract, and the State Fiscal Accountability Authority.
2. Consultant consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Contract; for any court action in connection therewith; or for the entry of judgement on any award made, may be served on Consultant by certified mail (return receipt requested) addressed to Consultant at the address provided in the Contract or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.
3. The Consultant and Agency waive claims against each other for listed damages arising out of or relating to this Contract.

- a. For the Agency, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) costs suffered by a third party unable to commence work, (vi) attorney's fees, (vii) any interest, except to the extent allowed by Section K.5, (viii) lost revenue and profit lost use of the property, (ix) costs resulting from lost productivity or efficiency.
 - b. For the Consultant, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) attorney's fees, (vi) any interest, except to the extent allowed by Section K.5, (vii) unamortized equipment costs; and (viii) losses incurred by the Consultant's subcontractors for the types of damages the Consultant has waived as against the Agency.
4. Continuation of Work: Pending resolution of a claim or dispute, the Consultant shall proceed diligently with the performance of its services under this Contract, and Agency shall continue to make payments in accordance with this Contract for all services rendered by Consultant which are not the subject of the claim or dispute.

I. TERMINATION OR SUSPENSION

1. Agency Right of Suspension:
 - a. The Agency may, at any time, suspend the Work, in whole or in part, with or without cause for such period of time as determined by the Agency. The Consultant shall be compensated for services performed prior to notice of such suspension, except in the event the suspension was due to a default, failure, or neglect by the Consultant.
 - b. When the Work, in whole or in part, is resumed, the remaining amount payable to the Consultant may be equitably adjusted to reflect reasonable costs actually incurred by the Consultant due to delay or interruption resulting from such suspension.
 - c. If the suspension exceeds ninety (90) consecutive days, the Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.
2. Agency Right of Termination:
 - a. Termination for Cause: If the Consultant defaults, persistently fails or neglects to perform the services in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Agency shall provide written notice of such default, failure, or neglect to the Consultant. If the Consultant fails to cure such default, failure, or neglect within ten (10) days from receipt of the Agency's notice the Agency may, without prejudice to any other right or remedy the Agency may have, terminate the Contract.
 - b. Termination for Convenience: The Agency may, for its convenience, terminate all or any portion of the Work or terminate this Contract by ten (10) days written notice stating the effective date of the termination. Thereafter, the Agency shall pay the Consultant for those services actually performed before the date of termination. No payments shall be made for services not actually performed, and no payment shall be made or due for lost profits for portions of the services not actually performed.
3. Consultant Right of Termination:
 - a. The Consultant may terminate the contract if Work is stopped through no fault of the Consultant, or other persons performing work either directly or indirectly for the Consultant, for a period of time exceeding sixty (60) consecutive calendar days due to a court order or other public authority having jurisdiction; or a declared National emergency which requires the Work to be stopped.
 - b. Agency Failure to Make Payment: Subject to the Agency's right to withhold payments, if the Agency fails to make payments to the Consultant as set forth in Section K and any other applicable provisions of the Contract and Contract Documents, the Consultant may, upon fourteen (14) days prior written notice to the Agency, terminate the Contract and recover from the Agency payment for all services actually performed, including reasonable overhead, profit and damages applicable to these services performed through the date thereof.
4. In the event of suspension or termination for convenience, upon request of Agency and payment of all fees pursuant to this Section, Consultant shall promptly provide Agency with all documents, reports, research, or appraisals completed or in progress on the date of termination in electronic format. The Agency has the right to use the Consultant's Work Product in the event of a termination of this Contract.

J. MISCELLANEOUS PROVISIONS

1. Governing Law: The Contract, any dispute, claim, or controversy relating to the Contract, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced, and governed by and under the laws of the State of South Carolina, except its choice of law rules.

2. This Contract is formed pursuant to and governed by the laws, codes, and applicable regulations of South Carolina.
3. Severability: If it is determined that any provision of the Contract violates any law, or is otherwise invalid or unenforceable, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provisions or part were deleted. In such case the Contract shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.
4. Economic Conflict of Interest: The Consultant shall not have or exercise any official responsibility regarding a public contract in which the Consultant, or a business with which he is associated, has an economic interest. A person working for the Consultant shall not have or exercise any official responsibility regarding a public contract in which the person, an individual with whom he is associated, or their family members have an economic interest. If the Consultant is asked by any person to violate, or does violate, either of these restrictions, the Consultant shall immediately communicate such information to the Agency representative. The state may rescind, and recover any amount expended as a result of, any action taken, or contract entered in violation of this provision. The terms "business with which he is associated," "economic interest," "family member," "immediate family," "individual with whom he is associated," "official responsibility," and "person" have the meanings provided in S.C. Code Ann § 8-13-100.
5. Drug-Free Workplace: The Consultant must comply with the Drug-Free Workplace Act, S.C. Code Ann §§ 44-107-10, et seq. The Consultant certifies to the Agency that Consultant will provide a Drug-Free Workplace, as defined by S.C. Code Ann §§ 44-107-20(1).
6. False Claims: According to SC Code § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.
7. Non-Indemnification: It is unlawful for a person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations per S.C. Code Ann. § 11-9-20. It is unlawful for an authorized public officer to enter into a contract for a purpose in which the sum is in excess of the amount appropriated for that purpose. It is unlawful for an authorized public officer to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of an indebtedness contracted or incurred for a previous year per S.C. Code Ann. §1-1-40.
8. Assignment: The Agency and Consultant, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Contract. Neither the Agency nor the Consultant shall assign this Contract without the written consent of the other. This contract is NOT transferable, or otherwise assignable, without the written consent of the Agency Representative; provided, however, that a contractor may, upon written approval, assign monies receivable under this contract after due notice from the contractor to the Agency.
9. Force Majeure: In the event Consultant is hindered, delayed, or prevented from performing its obligations under this Contract as a result any fire, flood, landslide, tornado or other act of God, malicious mischief, theft, strike, lockout, other labor problems, shortages of material or labor, or any other cause beyond the reasonable control of the Consultant, the time for completion of Consultant's work shall be extended by the period of resulting delay.
10. Open Trade Representation: By signing this Contract, Consultant represents that Consultant is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in S.C. Code § 11-35-5300. During the contract term, including any renewals or extensions, Consultant will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code § 11-35-5300.

K. COMPENSATION

1. Basic Services:

The Agency shall compensate the Consultant for the services rendered as described in the Contract Documents in Section A and shall not exceed the amount of: \$ 153,000.00

2. Additional Services:

The Agency shall compensate the Consultant for Additional Services rendered as described in the Contract Documents in Section A in the amount of: \$ N/A

3. Reimbursable Expenses:

For Reimbursable Expenses the compensation shall be the actual costs incurred by the Consultant and the Consultant's subcontractors. The Consultant and the Consultant's subcontractors shall be allowed a reasonable markup not to exceed 10% for administrative cost related to Reimbursable Expenses.

The Agency shall compensate the Consultant for Reimbursable Expenses described in the Contract Documents in Section A as a not-to-exceed amount of: \$ N/A

4. Unless authorized in writing by the Agency prior to incurring the expenses, no expense for transportation, travel, or subsistence will be reimbursable to the extent the expense exceeds the amount for which a state employee would be reimbursed under the Travel Regulations. Travel Regulations means the State Fiscal Accountability Authority's Regulations for Reimbursement for Travel and Subsistence Expenses, Disbursement Regulations pdf found at [\[https://cg.sc.gov/guidance-and-forms-state-agencies/cgs-accounting-policies-and-procedures\]](https://cg.sc.gov/guidance-and-forms-state-agencies/cgs-accounting-policies-and-procedures). There shall be no charge for time spent in travel.
5. Progress Payments. Payments for services shall be made upon completion of the service performed and invoiced accordingly. The Agency shall make payments to the Consultant of undisputed amounts due for services performed by the Consultant within twenty-one (21) days of receipt of the Consultant's invoice. The Consultant shall make progress payments to the subcontractors within seven (7) days of the receipt by the Consultant of each payment from the Agency.
6. The Agency shall not withhold amounts from the Consultant's compensation to impose a penalty.

AGENCY:

BY: 
(Signature of Representative)

PRINT NAME: ERIC G FOSULIRE
PRINT TITLE: CHIEF OF STAFF / GENERAL COUNSEL
DATE: 12/13/22

CONSULTANT:

BY: 
(Signature of Representative)

PRINT NAME: Cleveland A. Wright, Jr.
PRINT TITLE: Senior Managing Director
DATE: 12/8/2022