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GENERAL CONDITIONS

1. ACCIDENTS

The Offeror shall take all precautions necessary to protect the public against injury

2. ACTS, LAWS, AND REGULATIONS

The Offeror will comply with "all applicable federal, state and local acts, laws, and regulations" and must at a minimum comply with:

- Americans with Disabilities Act (ADA);
- Community Development Block Grant Program;
- Contract Work Hours and Safety Standards Act;
- Davis – Bacon Wage Requirements (when required for federal grant projects)
- Department of Health and Environmental Control (DHEC)
- Disabled and Vietnam veteran employment;
- Drug Free Workplace Act;
- Eligibility for employment under United States immigration laws;
- Employment Eligibility Verification: prescribes policies and procedures requiring participants to utilize the Department of Homeland Security (DHS), United States Citizenship and Immigration Service's employment eligibility verification program (E-Verify) as the means for verifying employment eligibility of certain employees.
- Employment of the handicapped;
- Employment of Workers with Disabilities;
- Equal Employment Opportunity;
- Environmental Protection Agency (EPA) regulations;
- Fair Labor Standards (FLSA) Act;
- Governmental price regulations/orders (as required by law, Offeror will deliver proof that materials sold or installed and services rendered comply with price regulations) if a federal grant project.
- Maximum hours and minimum wages
- Nondiscrimination Because of Age;
- Occupational Safety and Health Administration (OSHA), (e.g., all materials and services furnished meet or exceed OSHA safety standards);
- Prompt Payment 31 USC Chapter 39 and [S.C. Code Ann §§ 29-6-10 through 29-6-60](#).
- Statutes regarding qualification to do business;
- Statutes prohibiting employment discrimination;

- Walsh-Healey Public Contracts Act;
- 49 CFR PART- 26, 23, 21
Disadvantaged Business Enterprise
(DBE) Program

3. ADVICE

No official or employee of the County shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a proceeding, application, request for a ruling or other determination, contract, grant cooperative agreement, claim, controversy, or other particular matter in which these funds are used, where to his/her knowledge he/she or her/his immediate family, partners, organization, other than a public office in which he/she is serving as an officer, director, trustee, partner, or employee or any person or organization with which he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

4. AFFIRMATIVE ACTION

The Offeror shall take affirmative action in complying with all Federal, State and County requirements concerning fair employment, employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reasons of race, color, sex, religion, national origin and/or physical handicap

5. AMBIGUOUS OFFERS

Offers that are uncertain as to terms, delivery, compliance requirement, and/or specifications, may be rejected or otherwise disregarded.

6. AMENDMENTS

All amendments to and interpretations of this solicitation shall be in writing. Any amendments or interpretations that are not in writing shall not be recognized by the County or its agents. It is the Offeror's responsibility to acknowledge receipt of amendments either by signing and returning one (1) copy of the amendment or by letter.

7. ANTI-COMPETITIVE PRACTICE

Offerors that developed or drafted specifications, requirements, statement of work, Request for Bids, or Request for Proposals from this solicitation shall be prohibited from participation in this proposed procurement.

8. ANTI-KICKBACK PROCEDURES

a) *Definitions.*

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind, which is provided, directly or indirectly, to any prime Offeror, general Offeror employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a contract or in connection with a subcontract relating to a contract.

"Person," as used in this clause, means a corporation, partnership, and business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the County for the purpose of obtaining goods, supplies, materials, equipment, vehicles, construction or services of any kind.

"General Contractor/Vendor" as used in this clause, means a person who has entered into a contract with the County.

"General Contractor/Vendor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Offeror.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a general Offeror or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the General Contractor/Vendor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a Prime Contractor/Vendor a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Offeror or a higher tier subcontractor.

b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from.

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a general Offeror to the County or in the contract price charged by a subcontractor to a general Offeror or higher tier subcontractor.

c) (1) The Offeror shall have in place and follow reasonable procedures

designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Offeror has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Offeror shall promptly report in writing the possible violation. Such reports shall be made to the Contracting Officer and the County Attorney.

(3) The Offeror shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may

(i) Offset the amount of the kickback against any monies owed by the County under the prime contract and/or

(ii) Direct that the General Contractor/Vendor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c) (4) (ii) of this clause be paid over to the County unless the County has already offset those monies under subdivision (c) (4) (i) of this clause. In either case, the general Offeror shall notify the Contracting Officer and the County Attorney when the monies are withheld.

(5) The Offeror agrees to incorporate the substance of this clause, including paragraph (c) (5) but excepting paragraph (c) (1), in all subcontracts under this contract which exceed \$100,000.

9. ASSIGNMENT OF CONTRACT

No contract may be assigned, sublet, or transferred without a written consent of the Director of Procurement. The solicitation, specifications, scope of work, proposal and negotiated results between the County and Offeror shall constitute the entire contract.

10.AUDIT AND RECORDS

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Cost or pricing data.* If the Offeror has been required to submit cost or pricing data in connection with the pricing of any modification to this solicitation, the Contracting Officer, or an authorized representative, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Offeror's records, including computations and projections, related to—

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

(c) *Availability.* The Offeror shall make available at its office at all reasonable times the materials described in paragraph (b) of this clause, for

examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified, Offeror Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(d) The Offeror shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts.

11.CHANGES

All changes and claims for extra cost shall be in writing. The parties have right to make changes by written change order, with contract price and the time for completion being adjusted accordingly; and with the mutual acceptance by both parties

12.COMPLIANCE

Offeror shall comply with all laws, ordinances, rules and regulations applicable to the work. If specifications or drawings are at variance therewith, Offeror shall

promptly notify Buyer in writing and any necessary change shall be appropriately modified. Offeror shall bear all costs for any work it reasonably should have known was contrary to laws, ordinances, rules or regulations.

13.COMplete DOCUMENTS

Plans, Specifications, General Conditions, Special Conditions, Requirements and all Supplementary Documents, will be essential parts of agreed on Contract and requirements occurring in one are as binding as though occurring in all.

14.CONSEQUENTIAL DAMAGES

In no event shall the County, or any of its affiliates, representatives or any directors, officers, or employees or any of their respective parents of any of the foregoing be liable to Offeror or any of its Sub-suppliers, whether based on any theory whatsoever for any consequential, special, incidental, indirect, exemplary, multiple or punitive damages. Offeror hereby releases the County and each of its affiliates, representatives or any directors, officers and employees from any such liability.

15.CONTRACT ADMINISTRATION

The Contracting Officer shall have the authority to act on the behalf of the County to make binding decisions with respect to this solicitation. Questions or problems arising after award of this contract shall be directed to the Director of Procurement, 2020 Hampton Street, Suite 3064, Columbia, South Carolina 29204.

Contract (s) awarded for this solicitation will be for a non-exclusive one year (twelve months) contract that may be renewed by written agreement by both

parties for one year at a time not to exceed five years (sixty months).

16.COVENANTS AGAINST CONTINGENT FEES

The Offeror warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business. For breach or violation of this warranty, the County shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

17.DEFINITIONS

a) Richland County Government hereinafter will be referred to as "County" or "OWNER"

b) "Contracting Officer" shall be the person occupying the position of the Director of Procurement.

c) All references to days in this solicitation mean calendar days.

d) All references to "shall", "must", and "will" are to be interpreted as mandatory language.

e) Request for proposals, bids, and request for qualifications are solicitation methods selected for pending acquisition and may be referred to as "RFP", "RFB" or "RFQ".

f) "Person," as used in this solicitation, means a firm, company, entity, corporation, partnership, and business association of any kind, trust, joint-stock company, or individual.

g) "Prime contract," as used in this solicitation, means an Agreement or contractual action entered into by the County with Offeror for the purpose of obtaining supplies, goods, materials, equipment, construction or services of any kind.

h) "Offeror" as used in this clause, means a person, firm, company, entity, corporation, partnership, and business association of any kind; trust, joint-stock company, or individual who has made an offer to provide goods, supplies, materials, equipment, construction or services of any kind and submitting a proposal or bid for the pending acquisition.

i) "Offeror's Employee," as used in this clause, means any officer, partner, employee, or agent of an Offeror.

j) "Confidential Information" as used in this solicitation shall mean any and all technical and non-technical information and proprietary information of the COUNTY (whether oral or written), scientific, trade, or business information possessed, obtained by, developed for, or given to OFFEROR which is treated by COUNTY as confidential or proprietary including, without limitation, Research Materials and Developments (defined below), formulations, techniques, methodology, assay systems, formulae, procedures, tests, equipment, data, reports, know-how, sources of supply, patent positioning, relationships with OFFERORS and employees, business plans and business developments, information concerning the existence, scope or activities of any research,

development, manufacturing, marketing, or other projects of COUNTY, and any other confidential information about or belonging to COUNTY'S suppliers, licensors, licensees, partners, affiliates, customers, potential customers, or others.

k) "Subcontract," as used in this clause, means an Agreement or contractual action entered into by the OFFEROR with Subcontractor or any third party for the purpose of obtaining supplies, materials, equipment, construction or services of any kind under this Solicitation.

l) "Subcontractor," as used in this clause, (1) means any third party, person, firm, company, entity, corporation, partnership, and business association of any kind, trust, joint-stock company, or individual other than the OFFEROR, who offers to furnish or furnishes any supplies, materials, equipment, construction or services of any kind under this Solicitation or a subcontract entered into in connection with OFFEROR and the Solicitation with the COUNTY and (2) includes any third party, person, firm, company, entity, corporation, partnership, and business association of any kind, trust, joint-stock company, or individual who offers to furnish or furnishes services or general supplies to the OFFEROR or a higher tier Subcontractor.

18.DISCUSSIONS

Offeror shall not attempt to negotiate with the using department or other parties, and shall not discuss any aspects of the solicitation without prior written approval of the Director of Procurement.

19.DISPUTE RESOLUTION

The parties agree to utilize the "escalation clause" by elevating the

dispute upward in the County and utilizing the requirements established by the County.

20. DOCUMENTATION AND PROJECT COMPLETION

Upon completion of the project, Offeror shall furnish, at no extra charge all closeout documentation as agreed to and as it relates to the project and the solicitation, including at a minimum the following:

- Warranties and/or guarantees,
- Final affidavit or release and waiver of all liens from subcontractors
- Consent of Surety for final payment
- Minority Reports (when required);
- Project-related training materials and/or training plan;
- Any licensing;
- Contracted or plan for tech support, when appropriate;
- Statement of project final completion and acceptance;
- All required deliverables.

Contracting Officer (CO) and the Contracting Officer's Representative (COR) will recognize each project as complete only upon physical and written confirmation. County may assess project completeness using contemporary best (practical) and professional practices and evaluation criteria.

21. DRUG FREE WORKPLACE ACT

The Offeror and the County agrees to comply with the requirements set forth in Title 44, Code of laws of South Carolina, 1976, Chapter 107, and shall apply to all procurement actions involving an award for FIFTY THOUSAND dollars, (\$50,000.00) or more. The Offeror is required to execute a statement certifying that they understand and are

in full compliance with the Drug Free Workplace Act. Failure to comply with this requirement shall result in termination of any agreement.

22. EQUAL EMPLOYMENT OPPORTUNITY

Offeror agrees not to discriminate against any employee or applicant on the basis of age, race, color, religion, sex, or national origin; and to take affirmative action to employ and treat employees without regard to such factors. Offeror will provide information and submit reports on employment as County requests.

23. FORCE MAJEURE

The Offeror shall not be liable for any excess costs if the failure to perform the contract arises out of cause beyond the control and without the fault or negligence of the Offeror. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather. In every case the failure to perform must be beyond the control of both the Offeror and subcontractor and without fault or negligence of neither of them. The Offeror shall not be liable for any excess costs for failure to perform, unless supplies or services to be furnished by subcontractor were obtainable from other sources in sufficient time to permit the Offeror to meet the required delivery schedule.

24. FURNISHED DATA

All data and materials, negatives, photographs, engineering data, maps, plans, specifications, drawings, or other County furnished property shall remain the exclusive property of County.

Offeror agrees by executing an agreement that such County property will be used for no purpose other than for work for County under this solicitation. Offeror shall sign and deliver a written itemized receipt for all such property and shall be responsible for its safekeeping. Upon conclusion of the work/services hereunder, all such property shall be returned to the County.

25. GOVERNING LAWS/DISPUTES

Notwithstanding any other provision of this solicitation, any dispute concerning any question of fact or law arising under this Solicitation that is not disposed of between Offeror and the County shall be decided by a court of competent jurisdiction of the County of Richland in the State of South Carolina, in accordance with the laws of the state of South Carolina.

26. GRATUITIES

County prohibits its employees from using their official position for personal financial gain, or from accepting any personal advantage from anyone under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties. The Offeror or its employees shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, extend any gratuity or special favor to employees of County.

27. GUARANTEE

Offeror shall guarantee all workmanship and materials utilized in and for this contract being furnished for a period of not less than the contract term after the final inspection and acceptance of the deliverables. When defects of faulty

material is discovered during the guaranteed period, the Offeror shall, immediately, upon notification by the County, proceed at own expense, to repair or replace the same, together with any damage to all the finished deliverables that may have been damaged as a result of omission and/or workmanship.

28. IMPROPER INFLUENCE

The Contracting officer is the person occupying the position of the Director of Procurement. He is the only authorized "Agent" of the County, and he is responsible for all contractual affairs of the contract to include service delivery. The Contracting Officer shall appoint, in writing, a technical representative to help him monitor performance. This individual shall be a County employee and hereinafter referred to as the Contracting Officer Representative (COR). The Offeror must use this chain of communications at all times on all aspects of this contractual relationship.

Soliciting of special interest groups or appointed and elected officials with the intent to influence contract awards or to overturn decisions of the Contracting Officer is hereby prohibited. Violation of this provision may result in suspension or debarment. Aggrieved Offerors are encouraged to use the County policy on any matter related to this contract.

29. INDEMNIFICATION

Offeror shall indemnify, defend and hold harmless the County, its employees, and directors, each from and against all loss, damage, claims, and actions, and all expenses incidental to such claims or actions, including but not limited to liability as a result of injury to or death of any person, based upon or arising out of damage to property or injuries to

persons or other tortuous acts caused or contributed to by the Offeror or anyone acting under its direction or control or in its behalf in the course of its performance under this any agreement reach through this solicitation, and directly or indirectly caused, in whole or in part, by acts or omissions, negligence or otherwise, of Offeror or subcontractor or an agent of the Offeror or an employee of anyone of them, regardless of the negligence of the County or its employees, be it active or passive, except where such loss, cost, damage, claim, expense, or liability arises from the sole negligence or willful misconduct. Upon request of the County, Offeror shall, at no cost or expense to the County, defend any suit asserting a claim for any loss, damage or liability specified above, and Offeror shall pay any cost and attorneys' fees that may be incurred by the County in connection with any such claim or suit or in enforcing the indemnity granted above.

30.INSURANCE

Offeror shall be accountable for any damages resulting from his/her activities. Offeror shall pay for all such damage. Prior to commencing work hereunder, Offeror, at their own expense, shall obtain and maintain, throughout the duration of any agreement awarded through this solicitation, all such insurance as required by the State of South Carolina Statute, and minimally the below listed coverage's. Such insurance shall be issued by a company or companies authorized to do business in the State of South Carolina, Richland County, and any City in Richland County where any of the work is performed and must have a Best Rating of A-, VII or higher. The form and limits of such insurance, together with the underwriter thereof in each case, shall be acceptable to the

County, but regardless of such acceptance, it shall be the responsibility of Offeror to maintain adequate insurance coverage at all times. Failure of Offeror to maintain insurance coverage shall not relieve Offeror of their contractual obligation or responsibility hereunder. The information described herein sets forth-minimum coverages and limits and is not to be construed in any way as a limitation of liability on Offeror.

Offeror shall obtain and maintain such Public Liability and Property Damage insurance as shall protect Offeror, their subcontractors, and the County from claims for damages for personal injury, including accidental death, as well as for claims for property damage which might arise from operations under an award from this solicitation, whether such operations be by Offeror, or its subcontractors, or by any one directly or indirectly employed by them. The County shall be named as a Certificate Holder.

The Offeror's contractual liability insurance need not cover bodily injury or property Damage resulting from the sole negligence of the County

Workers Compensation Insurance including Statutory Workers' Compensation Amounts as required under South Carolina law for Benefits, and Employer's Liability. The Policy shall include an "all states" endorsement.

Comprehensive Automobile Liability Insurance to protect Offeror against claims for damages from:

- *Bodily injury, including wrongful death; and
- *Property damage, which may arise from the operations of any owned, hired, or

non-owned automobiles used by or for him/her in any capacity in connection with fulfillment of obligations under this contract. Minimum acceptable limits shall be: As required by the state of South Carolina to properly provide insurance for Bodily Injury in the amounts required per person and per occurrence; and Property Damage with Combined Single Limit.

30 days cancellation, non-renewal, material change or coverage reduction notice is required. The words "endeavor to" and", but failure to mail such notice shall impose no obligation or liability or any kind upon the company its agents or representatives" should be eliminated from the Notice of Cancellation provision.

The Certificate should state, "The insurance evidenced hereon applies to work performed by or on behalf of (*Contractor's or Vendor's name*) for Richland County South Carolina.

A. Commercial General Liability Insurance:

Offeror shall provide a liability policy written under Commercial General Liability form with limits of a minimum as required by law per occurrence on a location basis for each coverage and annual aggregate as required by law. The required basic coverage is for bodily injury and property damage and for personal injury. The policy shall also include:

- (1) Certificate of Liability Coverage:
The certificate of liability coverage shall provide evidence of the following:
 - a) The certificate of liability coverage shall verify compliance with the preceding requirements under "INSURANCE" and in addition it shall

state bodily injury and property damage are covered and state the retroactive date for claims-made coverage. If the retroactive date has been advanced it must supply satisfactory evidence of an extended reporting period for the prior policy;

B. Automobile liability

The county requires automobile liability insurance for all non-business automobile coverage written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in South Carolina shall provide coverage of at least \$25,000 per person and \$30,000 per occurrence for bodily injury and \$25,000 per occurrence for property damage or as required by current South Carolina legal requirements. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the state of South Carolina sufficient to meet normal and customary claims.

C. Business Auto Coverage:

Offeror shall provide the County with a business auto policy written on Business Auto Policy Coverage Form CA 00 01 that has limits required by South Carolina law per occurrence. The business liability coverage should be "Any Auto" (ISO Symbol 1). Physical damage coverage is at the option of the Offeror. The policy shall also include:

D. Workers Compensation and Employers Liability Insurance:

A workers compensation policy that specifies South Carolina coverage ("Other States" only is unacceptable), and an employer's liability policy with limits of per accident/per disease. It shall waive subrogation against the County, its officials, employees, temporary and leased workers and volunteers.

- (1) Certificate of Workers Compensation and Employers Liability Insurance:

The certificate shall indicate South Carolina coverage and the limits of the employer's liability coverage. It shall affirm the policy contains a waiver of subrogation against the County, its officials, employees, temporary and leased workers and volunteers. It shall provide evidence of compliance with the requirements in cancellation.

E. Cancellation, Non-renewal, Reduction in Coverage and Material Change:

The insurer and Offeror shall provide the County thirty (30) calendar days notice in writing of any cancellation, non-renewal or reduction in coverage or any other material change in the policy.

- (1) *Words indicating failure to provide notice or imposition of no liability are unacceptable.*
- (2) Each certificate must state the insurance evidence thereon applies to work performed by or on behalf of the Offeror.
- (3) Certificate Recipient: original certificates of insurance shall be sent to:

Richland County Government
Procurement and Contracting
2020 Hampton Street, Suite 3064
Columbia, SC 29204-1002
Attn: Rodolfo Callwood, Director

31. LICENSES, PERMITS AND CERTIFICATES

The Offeror at their own expense shall secure all licenses, permits, variances and certificates required for and in connection with any and all parts of the work to be performed under the provisions of this solicitation.

32. MATERIALS REQUIRED

Materials required must be in conformity with the specifications and shall be subject to inspection and approval after delivery, and shall comply in quality and type of material and method of manufacturer with all applicable local and state laws pertaining hereto. The right is reserved to reject and return at the risk and expense of the Offeror such portion of any shipment, which may be defective or fail to comply with specifications, and without validating the remainder of the order.

Material Requirements

(a) *Definitions.*

As used in this clause—

"New" means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; *provided* that the supplies meet contract requirements, including but not limited

to, performance, reliability, and life expectancy.

“Virgin material” means—

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Offeror shall provide supplies that are new.

33. NON-APPROPRIATIONS

Any contract entered into by the County shall be subject to cancellation without damages or further obligations when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.

34. NOTICES

Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Solicitation shall be in writing and shall be deemed to have been duly given if delivered personally in hand and signed for or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the parties:

- Notice may be by means other than those listed, other than oral;
- Parties must acknowledge the receipt of any notice delivered in person;
- Date of notice shall be the date of delivery or date signed for on certified registered mail by the U.S. mail; and
- Either party may change its address by written notice within ten calendar days to the other.

County:

*Richland County Government
Office of Procurement and Contracting
2020 Hampton Street, third Floor, Suite
3064, Columbia, SC 29204-1002
Attn: Rodolfo Callwood, Director*

35. OR APPROVED EQUAL” CLAUSE:

Certain processes, type of equipment or kinds of material are described in the specifications and/or on the drawings by means of trade names and catalog numbers. In each instance where this occurs, it is understood and inferred that such description is followed by the word “or approved equal.” Such method of description is intended merely as a means of establishing a standard of comparability. However, the County reserves the right to select the items, which, in the judgment of the County, are best suited to the needs of the County based on price, quality, service, availability and other relative factors. Bidders must indicate brand names, model, model numbers, size, type, weight, color, etc., of the item bid. If not exactly the same as the item specified, Bidder’s stock number or catalog number is insufficient to meet this requirement. If any Bidder desires to

furnish an item different from the specifications, he/she shall submit, along with the bid; information, data, pictures, designs, cuts, etc. of the material he/she plans to furnish that will enable the County to compare the material specified; and, such material shall be given due consideration. The County reserves the right to insist upon and receive items as specified, if the submitted items do not meet the County's standards for acceptance.

Brand Name or Equal

(a) If an item in this solicitation is identified as "brand name or equal," the purchase description reflects the characteristics and level of quality that will satisfy the County's needs. The salient physical, functional, or performance characteristics that "equal" products must meet are specified in the solicitation.

(b) To be considered for award, offers of "equal" products, including "equal" products of the brand name manufacturer, must—

(1) Meet the salient physical, functional, or performance characteristic specified in this solicitation;

(2) Clearly identify the item by—

(i) Brand name, if any; and

(ii) Make or model number;

(3) Include descriptive literature such as illustrations, drawings, or a clear reference to previously furnished descriptive data or information available to the Contracting Officer; and

(4) Clearly describe any modifications the Offeror plans to make in a product to make it conform to the solicitation requirements. Mark any descriptive material to clearly show the modifications.

(c) The Contracting Officer will evaluate "equal" products on the basis of information furnished by the Offeror or identified in the offer and reasonably available to the Contracting Officer. The Contracting Officer is not responsible for locating or obtaining any information not identified in the offer.

(d) Unless the Offeror clearly indicates in its offer that the product being offered is an "equal" product, the Offeror shall provide the brand name product referenced in the solicitation.

36. OTHER WORK

The County shall have the right to perform or have performed similar or such other work, as it may desire while Offeror is performing work. The Offeror shall perform its work in a manner that enables completion of other work without hindrance or interference (or shall properly connect and coordinate its work with that of others when required). Any claim of interference due to other work must be made to County within ten (10) calendar days of its occurrence or it is deemed waived.

37. OWNERSHIP

Except for the County's proprietary software and materials, and the proprietary Operating System Software,

all original data, spatial data, aspatial data plans, drawings, images, material, documentation (including electronic files or documents), and application software generated and prepared by or exclusively for the County pursuant to any agreement shall belong to the County. Offeror shall not sell, give loan nor in any other way provide such to another person or organization, nor otherwise utilize any commercially valuable data, images, or developments created specifically by or for the County under this agreement, without the written consent of the Contracting Officer. Any external requests to procure these data or materials must be forwarded to the County.

38.PACKAGING AND DELIVERY

All shipments shall be FOB to the County's location, as cited on the purchase order(s) and/or contract(s). Purchase order and/or contract number shall be clearly displayed on the shipping container. Furthermore, the parties agree hereto, that delivery by the Offeror to the common carrier does not constitute delivery to the County. Any claims for loss or damage, shall be between the Offeror and the carriers.

39.PATENT

The Offeror shall hold the County, its officers, employees, and agents, harmless from liability of any nature or kind whatsoever, on account of use by the publisher or authorized agent or manufacturer, and any copyrighted/un-copyrighted composition, secret process, article or application furnished or used under this solicitation.

40.PAYMENT

Offeror will invoice County under provisions of the Prompt Payment Act for

which payment terms are "Net 30 days" the County will make every attempt to satisfy the payment request within thirty- (30) calendar days as of receipt of invoice by the Contracting Officer for deliveries confirmed as accepted and meeting the standard of quality by that profession or industry or to which agreed. The County may pay interest at a rate equal to **one percent** on sums, which the County fails to remit on any undisputed portions within thirty - (30) days from date of Contracting Officer receipt of a valid and correct invoice on any unpaid amount for each month or fraction thereof, that such payment is delinquent due no fault of Offeror. Invoices shall be submitted periodically for the amount of work carried out and approved as accepted in that period. Invoices submitted for payment for services provided under this contract, shall contain as a minimum:

- Name of business concern;
- Contract; Purchase Order or Project number;
- Complete description of purchases or services;
- Cost/price of deliveries;
- Name; title; telephone number and complete mailing address of responsible official to whom payment is to be sent;
- shall be sent at least two weeks prior to desired payment date by electronic mail at ***Invoices@rcgov.us*** and hardcopy originals to attention the assigned Contracting Officer Representative (COR) or assigned point of contact (POC);

- Balance shall be paid upon completion of all work and County's final acceptance of all work;
- Payment does not constitute acceptance of defective or nonconforming for work, vehicle, equipment, goods or supplies or otherwise relieve Offeror of any obligation under the contract;
- The County may disputes the value and quality of the work, vehicle, equipment, goods or supplies in question
- The County shall have the right to withhold payments from the Offeror due to actual or prospective loss due to defective or nonconforming work, damaged or loss for which Offeror is liable;
- The County shall have the right to withhold from the Offeror amounts representing Offeror's inability to complete the work, deliver or breach or due to actual or prospective loss under any terms or conditions of the contract,

41.PERMITS

The Offeror will comply with "all applicable federal, state and local laws, regulations and permits" and agrees to at a minimum comply with:

- The Offeror shall obtain all permits or licenses required in connection with the work, give all notices, pay all fees, etc., to ensure compliance with law (unless County elects to procure and pay for same), and shall deliver all proof of compliance

to County upon the County's final acceptance of the work.

- Offeror shall report to County any aspect of noncompliance of specifications, drawings, and other contract documents with the law.
- If Offeror cannot procure necessary permits, County may cancel the contract without liability or may procure the permits and deduct the cost thereof from the contract price (only at the discretion of the Director of Procurement.

42.PRIME OFFEROR, ASSIGNMENT AND SUBCONTRACTING

The Offeror shall be the "Prime Offeror", and the agreement shall be the primary agreement. All other agreements between the County and Offeror shall be subordinate to the primary agreement in the event of conflict between the primary agreement and any other agreements unless, otherwise specifically stated herein, or by mutually executed Amendment hereto. The County shall consider the Offeror to be sole point of contact with regard to all contractual matters of this project.

Offeror hereto without the express written consent of the Contracting Officer shall not assign obligation under this solicitation to another party.

If any part of the work covered by the solicitation is to be subcontracted, the Offeror shall submit the qualifications of the subcontracting organization and the proposed contractual arrangements to the County for approval prior to execution of the contract. The approved Offeror-subcontractor contractual agreement, excluding financial information, shall be provided to the

County. Approval by the County of such subcontract shall not in any way relieve Offeror of any of their obligations, responsibilities, or liabilities, under this solicitation, regardless of the nature and conditions of such subcontractor services and actions on Offeror's behalf.

43. PROHIBITION OF GRATUITIES:

Amended Section 8-13-720 of the 1976 Code of Laws of South Carolina states:

"WHOEVER gives or offers to any public official or public employee any compensation including a promise of future employment to influence his action, vote, opinion or judgment as a public official or public employee or such public official solicits or accepts such compensation to influence his action, vote, opinion, or judgment shall be subject to the punishment as provided by Section 16-9-210 and Section 16-9-220. The provisions of this section shall not apply to political contributions unless such contributions are conditioned upon the performance of specific actions of the person accepting such contribution nor shall they prohibit a parent, grandparent or relative from making a gift to a child, grandchild or other close relative for love and affection except as hereinafter provided."

44. PROJECT ORGANIZATION

It is expected that Offeror will be dealing with various members of the County's Staff during the course of an award of an agreement from this solicitation. To establish a clear line of communications, a Contracting Officer Representative (COR), acting as Project Manager, shall be appointed to oversee and coordinate all aspects of the work. He/she shall be the focal point of contact with the Offeror.

45. PROPRIETARY INFORMATION:

Offeror(s) shall visibly mark as "Confidential" each part of their proposals which they consider proprietary information that could be exempt from disclosure under Section 30-4-40, Code of Laws of South Carolina, 1976 (1986 Cum. Supp.) Freedom of Information Act (FOIA); if any part is designated as "Confidential," there must be attached to that part an explanation of how the information fits within one or more categories listed in Section 30-4-40. The County reserves the right to determine whether this may be brought against the County or its agent for its determination in this regard.

46. PUBLICITY RELEASES:

Offeror agrees not to refer to award of this contract in commercial advertising in such manner as to state to imply that the products or services provided are endorsed or preferred by the County.

47. QUALIFICATIONS:

Offeror must be regularly established in the business called for, and who by executing this solicitation certifies that they are financially capable and responsible; is reliable and has the ability and experience, to include, the facility and personnel directly employed or supervised by them to complete this contract. Offeror certifies that they are able to render prompt and satisfactory service in the volume called for under this contract.

County may make such investigation, as he deems necessary to determine the ability of the Offeror to perform the work. The Offeror shall furnish to the County all such information and data as the County may request, including, if requested, a detailed list of the

equipment which the Offeror proposes to use, and a detailed description of the method and program of the work he proposes to follow. The County reserves the right to terminate, if anytime throughout the term of an agreement the evidence submitted by, or investigation of, the Offeror fails to meet all requirements as stipulated or satisfy the County that the Offeror is properly qualified to carry out the obligations of the contract and to complete the work agreed on therein.

48. QUALITY OF PRODUCT:

Offeror shall render the services consistent with the standard of care, skill and diligence exercised by members of the same profession providing similar services under similar conditions at the time the services are to be performed. Offeror standard of care shall not be altered by the application, interpretation or construction of any other provision of this Solicitation.

49. REJECTION

(a) Any Submittal that fails to conform to the essential requirements of the Request for Multi-Step Bid (RFMSB) shall be rejected.

(b) Any Submittal that does not conform to the applicable *requirements and specifications* shall be rejected unless the RFMSB authorized the submission of alternate Submittals and the Submittal offered as alternates meet the requirements specified in the invitation.

(c) Any Submittal that fails to conform to the delivery schedule or permissible alternates stated in the RFMSB shall be rejected.

(d) A Submittal shall be rejected when the Bidder imposes conditions that would

modify requirements of the invitation or limit the Bidder's liability to the County, since to allow the Bidder to impose such conditions would be prejudicial to other Bidder's. For example, Submittals shall be rejected in which the Bidder-

1) Protects against future changes in conditions, such as increased costs, if total possible costs to the County cannot be determined;

2) Fails to state a price and indicates that price shall be "price in effect at time of delivery;"

3) States a price but qualifies it as being subject to "price in effect at time of delivery;"

4) Requires that the County is to determine that the Bidder's product meets applicable County requirements and specifications or limits rights of the County under any contract clause.

A Bidder may be requested to delete objectionable conditions from a Submittal provided the conditions do not go to the substance, as distinguished from the form of the Submittal, or work an injustice on other Bidder's. A condition goes to the substance of a Submittal where it affects price, quantity, quality, or delivery of the items offered.

Any Submittal may be rejected if the Contracting Officer determines in writing that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the Submittal, but the prices for individual line items as well.

Any Submittal may be rejected if the prices for any line items or sub-line items are materially unbalanced.

Submittals received from any person or concern that is suspended, debarred, proposed for debarment or declared ineligible as of the Submittal opening date shall be rejected unless a compelling reason determination is made.

The Contracting Officer must reject Submittals received from concerns determined to be non-responsible.

When a Submittal guarantee is required and a Bidder fails to furnish the guarantee in accordance with the requirements of the Submittals, the Submittal shall be rejected.

The originals of all rejected Submittals, and any written findings with respect to such rejections, shall be preserved with the papers relating to the acquisition.

After submitting a Submittal, if all of a Bidder's assets or those parts related to the Submittal are transferred during the period between the Submittal opening and the award, the transferee may not be able to take over the Submittal. Accordingly, the Contracting Officer shall reject the Submittal unless merger, operation of law affects the transfer or other means not barred by law.

50. RESPONSIBILITY

The Offeror certifies that it has fully acquainted itself with conditions relating to the scope, specifications, and restrictions attending the execution of the work under the conditions of this solicitation.

The failure or omission of the Offeror to acquaint itself with existing conditions shall in no way relieve the Offeror of any obligation with respect to the offer and any subsequent agreement.

Neither partial or final inspection, nor approval by Owner, Buyer or their representatives, shall relieve the Offeror of responsibility to make the work and/or equipment comply with purchase requirements.

51. SECURITY – COUNTY'S RULES:

In consideration of the security responsibility of the County, the Contracting Officer or designee reserves the right to observe Offeror's operations and inspect the related areas. Moreover, Offeror agrees to abide by any and all of the County's rules and regulations, procedures and General Orders, as well as any directives by the County Administrator, Contracting Officer or designee regarding Offerors performance when operating on or in County's property under the terms and conditions of this solicitation. Offeror agrees to provide the names of employees assigned to work in and on the County's property and that the County may make criminal background record checks, and County may require Offeror to provide criminal background record checks. Offeror is also required to provide a certified medical certificate stating that each proposed employee is free from communicable diseases. The Contracting Officer or designee reserves the right to require all of Offeror's employees, Offerors, and sub-Offerors accessing County property to have the company's identification with photograph, name, and position of the employee at the Offeror's sole expense. The Offeror must issue photo identification cards if requested by County and require it to be worn by its employees whenever they are present on or in the County's property. Persons not previously screened for admittance shall not be admitted on or in the County's property without proper notification and

authorization from the Contracting Officer or designee.

The County reserves the right upon showing of probable cause, to search the employees of Offeror while in or on County's property;

Offeror is responsible for identifying fire escape routes in County facilities.

Offeror's employees shall comply with the County's written policies and procedures relating to County's security. Offeror's employees shall also comply with all of the County's rules concerning the use of the working areas.

Offeror's representative shall report any unusual occurrences immediately to the Contracting Officer or designee. It shall be the responsibility of Offeror to secure any assigned areas before exiting the County's facilities, unless notified in writing by the Contracting Officer or designee to do otherwise.

52. SEVERABILITY:

If any term of provision of any contract resulting from this solicitation shall be found to be illegal or enforceable, notwithstanding any such legality or enforceability, the remainder of said contract shall remain in full force and effect, and such term or provision shall be deemed to be deleted and severable there from.

53. SOUTH CAROLINA LAW CLAUSE:

The Offeror must comply with the laws of South Carolina, which require such person or entity to be authorized and/or licensed to do business in this state. Notwithstanding the fact, that applicable statutes may be authorized and/or licensed to do business in this state, by signing this solicitation, the Offeror

agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, as to all matters and disputes arising or to arise under the contract and the performance thereof, including any questions as to the liability of taxes, licenses or fees levied by the State/County.

54. SPECIFICATIONS

Any deviation from the specifications indicated herein must be clearly pointed out, otherwise, it will be considered that items offered are in strict compliance with these specifications, and successful Bidder shall be held responsible therefore. Deviations must be explained in detail on separate sheets and be attached to the submitted bid.

55. STATEMENT OF COMPLIANCES AND ASSURANCES

Offeror(s) to be eligible for consideration shall be required to certify in writing, that the firm or agency represented in the proposal submitted, complies with all applicable federal and state laws/regulations and County ordinances.

a. Offeror(s) shall be required to provide with each bid, a written assurance of noncollusion and understanding and acceptance of any and all provisions stated in this contract.

b. A statement of Compliance and Assurance, along with other statements and certification shall be provided to Offerors and be part of each solicitation.

56. SUBCONTRACTS:

Offeror shall not subcontract work hereunder without the prior written consent of the County, and any such subcontract without consent of the County shall be null and void. If Offeror

proposes to subcontract any of the work hereunder, it shall submit to the County the name of each proposed subcontractor(s), with the proposed scope of work, which its subcontractor is to undertake. The County shall have the right to reject any

Subcontractors which it considers unable or unsuitable to satisfactorily perform; Offeror shall not enter into any cost reimbursable contracts with any proposed subcontractor without County's prior written authorization.

Notwithstanding any consent by the County to a proposed subcontract, Offeror shall remain responsible for all subcontracted work and services. Offeror agrees it shall be as fully responsible to the County for the acts and omission of its subcontractors, their agents, representatives, and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Offeror.

Neither this provision, this contract, the County's authorization of Offeror's agreement with subcontractor, County's inspection of subcontractor's facilities, equipment or work, or any other action taken by the County in relation to subcontractor shall create any contractual relationship between any subcontractor and the County.

Offeror shall include in each of its subcontracts a provision embodying the substance of this article and shall exhibit a copy thereof to the County before commencement of any work by subcontractor. Offeror's violation of this provision shall be grounds for the County's termination of this contract for default, without notice or opportunity for cure.

In addition, Offeror indemnifies and holds the County harmless from and against any claims (threatened, alleged, or actual) made by any subcontractor (of any tier) for compensation, damages, or otherwise, including any cost incurred by the County to investigate, defend, or settle any such claim.

57. TAXPAYER IDENTIFICATION

(a) *Definitions.*

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the Offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All Offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements, reporting requirements of, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements of the State of South Carolina failure or refusal by the Offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the Offeror's relationship with the Government. If the resulting contract is subject to the payment reporting requirements of the IRS, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Offeror's TIN.

(d) *Taxpayer Identification Number (TIN).*

o TIN:

-
- o TIN has been applied for.
 - o TIN is not required because:
 - o Offeror is an agency or instrumentality of a foreign government;
 - o Offeror is an agency or instrumentality of the Federal Government.

(e) *Type of organization.*

- o Sole proprietorship;
 - o Partnership;
 - o Corporate entity (not tax-exempt);
 - o Corporate entity (tax-exempt);
 - o Government entity (Federal, State, or local);
 - o Other
-

(f) *Common parent.*

- o Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
 - o Name and TIN of common parent:
Name
-

TIN _____

58. TERMINATION:

County shall have the right to terminate any agreement in whole or in part for its convenience at any time during the course of performance by giving thirty-(30) day's written or telegraphic notice. Upon receipt of any termination notice, Offeror shall immediately discontinue services on the date and to the extent specified in the notice.

Offeror shall be paid the actual written approved costs incurred during the performance hereunder to the time specified in said notice, not previously reimbursed by County to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by Offeror prior to and in connection with discontinuing the work hereunder. In no event shall such costs include unabsorbed overhead or anticipatory profit, nor shall such costs exceed the total price of any individual supplement or Project Release.

County may also cancel or terminate for default any agreement in whole or in part by thirty (30) days written, electronic or telegraphic notice to Offeror:

if Offeror shall become insolvent or make a general assignment for the benefit of creditors; or

if a petition under the Bankruptcy Act is filed by Offeror; or

if Offeror becomes involved in some legal proceedings that in the opinion of County interfere with the diligent, efficient performance and satisfactory completion of the services; or

if Offeror fails to make delivery of the supplies or to perform the services within the time specified or any authorized extension thereof.

59. TIME OF COMPLETION:

Date of delivery shall be a consideration factor in the awarding process. The Bidder shall include with this bid delivery dates for each item as requested, and shall furnish all items in accordance with the bid solicitation unless an extension was granted by the Director of Procurement, in writing

60. TIME OF DELIVERY

(a) The County requires delivery to be made according to the following schedule:

REQUIRED DELIVERY SCHEDULE		
ITEM No.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

The County will evaluate equally, as regards time of delivery, offers that propose delivery of each quantity within the applicable delivery period specified above. Offers that propose delivery that will not clearly fall within the applicable required delivery period specified above will be considered nonresponsive and

(b) Attention is directed to the Contract Award provision of the solicitation that provides that a written award or acceptance of offer mailed, or otherwise furnished to the successful Offeror, results in a binding contract. The County will mail or otherwise furnish to the Offeror an award or notice of award not later than the day award is dated. Therefore, the Offeror should compute the time available for performance beginning with

rejected. The County reserves the right to award under either the required delivery schedule or the proposed delivery schedule, when an Offeror offers an earlier delivery schedule than required above. If the Offeror proposes no other delivery schedule, the required delivery schedule above will apply.

Desired and Required Time of Delivery

(a) The County may desire delivery to be made according to the following schedule:

DESIRED DELIVERY SCHEDULE		
ITEM No.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

If the Offeror is unable to meet the desired delivery schedule, it may, without prejudicing evaluation of its offer, propose a delivery schedule. However, the Offeror's proposed delivery schedule must not extend the delivery period beyond the time for delivery in the County's required delivery schedule.

OFFEROR'S PROPOSED DELIVERY SCHEDULE		
ITEM No.	QUANTITY	WITHIN DAYS AFTER DATE OF CONTRACT

the actual date of award, rather than the date the written notice of award is received from the Contracting Officer through the ordinary mails. However, the County will evaluate an offer that proposes delivery based on the Offeror's date of receipt of the contract or notice of award by adding (1) five calendar days for delivery of the award through the ordinary mails, or (2) one working day if the contract or notice of award will be transmitted electronically. (The term "working day" excludes weekends and U.S. Federal holidays.) If, as so computed, the offered delivery date is later than the required delivery date; the offer will be considered nonresponsive and rejected.

61.WAIVER

The County reserves the right to waive any provisions of the General or Special Conditions, or specification deviations.

62.WARRANTIES

Offeror must obtain all possible manufacturers' warranties for equipment, materials, etc., and to assign such warranties to the County upon acceptance of the work. Other typical warranties and guarantees given by the Offeror should include the following:

All materials and equipment shall be new, unused and free from defects in design, workmanship and material. Offeror must provide written guarantee and warranties that all materials and equipment is new (unless otherwise specified), and free from defects in titles.

All work by Offeror will be done in a competent, workmanlike manner and remain free of defects in workmanship and materials for a period of one year or agreed on warranty period from the date of acceptance (or such other date as agree on in writing). Work found to be defective within one year (or agreed on written period) after acceptance shall be promptly corrected within thirty calendar days after written notice from the County.

Offeror warrants that:

The work, material and/or equipment, when completed, will meet or exceed the performance and other requirements set forth in the Order.

The Offeror guarantees to repair, replace or otherwise correct any defect in design, workmanship and/or material appearing in the work, material, and/or equipment, and further guarantees to correct any further defects appearing in such repaired, replaced or otherwise corrected work,

63.WITHDRAWAL OF BIDS

Any Offeror may withdraw their Bid prior to the closing time schedules for the receipt of Bids.