



## **CITY OF COLUMBIA, SOUTH CAROLINA**

### **Request for Proposal (RFP)**

#### **Real Estate Services for Community Development Block Grant Mitigation Grant (CDBG-MIT) RFP011-20-21-KDD**

**Issuance Date: March 16, 2021**

**Non-Mandatory Pre-Proposal Meeting: March 24, 2021 at 10:00 A.M. (ET)**

To be held virtually via Zoom

**Last Day to Submit Questions:**

**March 26, 2021 at 10:00 A.M. (ET)**

Questions and Responses to this RFP must be submitted to:

<https://columbiasc.ionwave.net>

**Response Deadline: April 16, 2021 at 12:00 P.M. (ET)**

Send Hard and Digital Copies to:

1800 Main Street – Second Floor

Columbia, S.C. 29201

Attention: *Kent Davis*, Procurement Manager

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## I. GLOSSARY OF TERMS

**Addendum/Addenda:** A written change, addition, alteration, correction or revision to a bid, proposal or contract document. Addendum/Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the solicitation.

**Administration:** Performance of executive duties.

**Actual Cost:** All direct and indirect costs incurred for services, supplies, or construction, as distinguished from estimated or forecasted costs.

**Amendment:** An agreed addition to, deletion from, correction or modification of a document or contract. To revise or change an existing document; a formal revision, improvement or correction.

**A/E (Architect or Engineer) Professional Services:** Services that require performance by a registered architect or engineer. Professional services of an architectural or engineering nature that are associated with research, planning, development, and design for construction, alteration, or repair.

**Assignment:** Legal transfer of a claim, right, interest or property.

**Capability:** The ability of an Offeror to fulfill the contract at time of award.

**City:** City of Columbia, SC, also known as the “Owner” or “Utility”.

**Consultant:** A person or company that possesses unique qualifications that allow them to perform specialized advisory services usually for a fee.

**Contract:** Any individual or business having a contract with a governmental body to furnish goods, services, or construction for an agreed-upon price.

**Contractor:** Any individual or business having a contract with a governmental body to furnish goods, services, or construction for an agreed-upon price.

**Cost:** The actual expenses incurred in delivering a product, service, or construction; includes both direct and indirect costs, but does not include fee or profit for the firm.

**Deliverable:** The completion of a milestone or the accomplishment of a task. Deliverables are used to measure successful performance.

**Descriptive Literature:** Information, such as charts, illustrations, brochures, and technical data, furnished by an Offeror, on request as part of a bid, to describe the items offered; shows the characteristics or construction of a product, or explains its operation to determine the acceptability of the item.

**Design Specification:** A type of specification that establishes the characteristics an item must possess, including details indicating how it is to be manufactured. May include engineering plans or drawings, and blueprints. It states to the contractor in prescriptive terms what the contractor must provide to the buyer.

**Engineer:** An engineer is an individual, partnership, or corporation that designs materials, structures, machines, and systems, considers the limitations imposed by practicality, safety, and cost, and adheres to local and national building codes.

**Functional Specification:** A specification setting forth the results required from the supply or service.

**Late Bid/Proposal:** A bid, proposal, withdrawal, or modification received, at the designated place for receipt, after the established due date and time. Procurement policies should be established in order to provide guidance regarding how late bids/proposals are handled administratively. In most public entities, late bids/proposals are not opened and may be returned to the Bidder/Offeror advising that the bid was received late (after the due date and time) and cannot be accepted.

**Mandatory Requirements (Conditions):** Conditions set out in the specifications/statement of work that must be met without alteration. Not meeting mandatory requirements may be grounds for disqualification.

**Offeror:** The person/entity who submits a proposal in response to a Request for Proposals (RFP). One who makes an offer in response to a solicitation. Term *Bidder* is interchangeably throughout this RFP. *Also see definition of a Responsible and Responsive Offeror/Bidder.*

**Pre-Bid/ Pre-Proposal Conference (Meeting):** A meeting held by the buyer with potential Bidders/Offerors, prior to the opening of the solicitation for the purpose of answering questions, clarifying any ambiguities and responding to general issues in order to establish a common basis for understanding all of the requirements of the solicitation. This may result in the issuance of an addendum to all potential providers. In certain situations, a mandatory conference may be advisable.

**Price:** The total amount, in money or other consideration, to be paid or charged for a commodity or service; normally includes all costs (direct labor, overhead, materials) and profit or fee.

**Project Manager:** Designated individual within the agency to administer a specific task or contract.

**Request for Proposal (RFP):** The document used to solicit proposals from potential providers for goods and services (Offerors). Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price prior to contract award. May include a provision for the negotiation of Best and Final Offers. May be a single step or multi-step process. Introduced in the Armed Services Procurement Act of 1962 as well as by the Competition in Contracting Act of 1984.

**Responsible Bidder/Offeror:** Also referred to as Responsible Proposer or Respondent. A firm, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance.

**Responsive Bidder/Offeror:** Also referred to as Responsive Proposer or Respondent. A firm, business entity or individual who has submitted a bid or proposal that fully conforms in all material respects to the RFP and all of its requirements, including all form and substance.

**Service/Services Contract:** An agreement calling for a firm's time and effort. The furnishing of labor, time, or effort by a firm, which may involve to a lesser degree, the delivery or supply of products.

**Short List:** Names of candidates that have been narrowed considerably from a longer list of top-ranked Offerors.

**Solicitation:** An invitation for bids, a request for proposals, telephone calls or any document used to obtain bids or proposals for the purpose of entering into a contract.

**Scope of Work/Services:** A detailed, written description of the conceptual requirements for the project contained within a Request for Proposal. The scope of work should establish a clear understanding of what is required by the entity.

**Subcontractor:** Any person or business entity employed to perform part of a contractual obligation under the control of the principal contractor. Any supplier, distributor, or firm that furnishes supplies or services to a prime contractor or another subcontractor.

*(Definitions above provided by the National Institute of Governmental Purchasing, Free Dictionary.com, Merriam-Webster.com & Business Dictionary.com)*

## DEFINITION OF TERMS:

Whenever the terms “**shall,**” “**must,**” or “**is required**” are used in the RFQu, the referenced task is a mandatory requirement of this RFQu. Failure to meet any mandatory requirement will be cause for rejection of a submittal.

Whenever the terms “**can,**” “**may,**” or “**should**” are used in the RFQu, the referenced specification is discretionary. Therefore, although the failure to provide any items so termed will not be cause for rejection, the Selection Committee may consider such failure in evaluating the submittal.

Whenever the terms “**apparent successful**” or “**top-ranked**” or “**highest-ranking**” firm or Offeror are used in this document, the reference is to the firm that the Selection Committee ultimately judges to have submitted the case best satisfying the needs of the owner in accordance with the RFQu. The selection of an apparent successful firm does not necessarily mean the Selection Committee accepts all aspects of the firm’s submittal or proposal.

## GLOSSARY of TERMS SPECIFIC to THIS SOLICITATION

**CDBG-MIT:** A grant to address mitigation activities guided by Title I of the Housing and Community Development Act of 1974 (HCA Act), as amended and those regulations set forth in 24 CFR Part 570, as may be amended from time to time and all other applicable Federal and State regulations, laws, assurances and Federal Register waivers, notices, and alternative requirements governed by the Appropriations Act. Funding received has been authorized and allocated pursuant to Federal Register Notice (84 FR 45840).

**Descriptive Literature:** Information, such as charts, illustrations, brochures, and technical data, furnished by a bidder, on request as part of a bid, to describe the items offered; shows the characteristics or construction of a product, or explains its operation to determine the acceptability of the item.

**Eligible Activity:** Each funded activity must meet the HUD definition of an eligible activity as defined at 24 CFR 570.201-207. Additionally, to be an eligible activity under Federal Register Notice (84 FR 45840) and meet at least one of the HUD National Objectives defined at 24 CFR

570.208.

**Eligible Costs:** Costs for the activities specified in the subrecipient agreement for which grant funds are budgeted, provided that such costs (i) are incurred in connection with any activity which is eligible under Federal Register Notice (84 FR 45840) and Title I of the Housing and Community Development Act of 1974, and (ii) conform to the requirements of 2 CFR Part 200.

**Environmental Review:** A comprehensive analysis of the environmental issues, impacts, and performance related to activities for a project undertaken using CDBG-DR funds. The National Environmental Policy Act of 1969 (NEPA) is the basic national charter for the protection of the environment. Per the CDBG-MIT Federal Register Notice (84 FR 45840), HUD will allow the adoption of another federal agencies environmental review so long as the scope of work has not changed significantly from the original agencies review. When there is not another federal agency environmental review that can be adopted, the City of Columbia will complete the environmental review in compliance with 24 CFR Part 58.

**FAR (Federal Acquisition Regulations):** The primary document in the Federal Acquisition Regulations System, containing uniform policies and procedures that govern the acquisition activity of all federal agencies. The FAR is prepared, issued and maintained jointly by the Secretary of Defense, the Administrator of General Services and the NASA Administrator. (Nash, Schooner, O'Brien, 1998).

**Federal Register:** A daily publication available from the Government Printing Office, that lists and discusses the regulations of federal agencies, makes the regulations available for public comment before they are made final, and publishes all final rules and regulations. ([www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr))

**FEMA:** Federal Emergency Management Agency

**Low-and Moderate-Income Area (“LMA”) Benefit:** Per CDBG regulations, an area benefit is an activity which is available to benefit all the residents of an area which is primarily residential. In order to qualify as addressing the national objective of benefit to L/M income persons on an area basis, an activity must meet the identified needs of L/M income persons residing in an area where at least 51% of the residents are L/M income persons. The benefits of this type of activity are available to all residents in the area regardless of income.

**Low-and moderate-income person (“LMI”):** Per CDBG regulations, a person is considered to be of low income only if he or she is a member of a household whose income would qualify as “low-to-moderate income” under the Section 8 Housing Assistance Payments program. CDBG moderate income relies on Section 8 “lower income” limits, which are tied to 80% or less of area median.

**National Objective:** Each activity must meet one of the following national objectives for the program: 1) benefit low-and moderate-income persons, 2) prevention or elimination of slums or blight, or 3) address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

**Principal:** One who employs an agent. A person who has authorized another to act for him/her.

**Tier Covered Transactions:** Parties involved in implementing a project to include, but not limited to the Federal Government, State of South Carolina, City of Columbia, the successful offeror and subcontractors.

**U.S. Department of Housing and Urban Development (“HUD”):** HUD is the federal agency responsible for obligating and disbursing the CDBG-MIT funds as well as monitoring grantees. HUD’s stated mission is “to create strong, sustainable, inclusive communities and quality affordable homes for all”.

## **II. BACKGROUND**

The City received HUD approval for its CDBG Mitigation Action Plan on June 29, 2020. The Action Plan described the allocation of \$18,585,000 to programs designed to enable the City of Columbia to implement solutions that will improve the City’s resilience and to mitigate against future hazards.

The City is in the first year of a 12-year CDBG MIT grant. The selected Respondent shall be able to provide support in areas of real estate services related to projects proposed for funding with CDBG-MIT funds.

A portion of the services procured under this RFP may be paid with funding provided by the U.S. Department of Housing and Urban Development under the Community Development Block Grant – Mitigation program, or from other federal and/or local sources. Funding provided by HUD will be subject to guidelines and regulatory requirements, and the successful bidder must be willing to abide by these guidelines and provide information as required by the City and HUD.

Respondent shall have thoroughly reviewed the Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant (CDBG) Mitigation Grantees found in Federal Register Notice 84 FR 45840 and all pertinent Federal Register notices, and the City of Columbia CDBG-DR Action Plan and all amendments thereto.

The City’s current CDBG-MIT programs include the following activities:

- Acquisition/renovation or construction of a Fire Station to serve the Olympia neighborhood
- Other mitigation projects yet to be identified that may require real estate services

These activities are to be conducted in accordance with CDBG regulations 24 CFR 570 and the City’s CDBG-MIT Action Plan, state laws and local ordinances.

## **III. GENERAL INFORMATION**

The City of Columbia, hereinafter referred to as the “City,” is soliciting proposals for commercial real estate brokerage, owner representation, and consulting services that may be awarded at any point during the term of the contract, at the sole discretion of the City. The City reserves the right to negotiate the scope for proposed services, if employed. Review of proposals submitted in response to this RFP in no way precludes the City from procuring these services in a different fashion at its sole discretion.

The City expects that any compensation for the purchase or sale of real estate will be the commission paid by a third-party building owner or leasing agent and will be contingent upon the close of the subject real estate transaction. Additional consulting services, not directly related to the sale, purchase, or lease of real estate will be compensated separately. Bidders are expected to address in their proposal any non-commission fees or other compensation the Bidder expects to receive from the City and to detail the circumstances under which those fees would apply.

Proposals must be submitted electronically through eBidcolumbiasc, the City's e-Procurement System at <https://columbiasc.ionwave.net> by the date and time specified herein. Hardcopy submittals must be sent to *City of Columbia, Department of Procurement and Contracts, 1800 Main Street, Second Floor, Columbia, South Carolina 29201*; Attn: **RFP011-20-21-KDD Real Estate Services for Community Development Block Grant Mitigation Grant (CDBG-MIT)**. Detailed instructions for submitting responses to this RFP can be found under Section VII. *Mandatory Response Requirements and Submittal Format*.

The determination of the successful Offeror (hereinafter referred to as the "Offeror") will be based on a variety of criteria including, but not limited to, the qualifications, and experience of the Offeror; and the consideration of the price and evaluation factors set forth in this RFP to identify the Offer that is the most advantageous to the City.

The City will conduct a formal selection process to determine the highest ranked, responsive, and responsible Offeror whose proposal is determined to be the most advantageous to the City. A selection committee will review and evaluate the proposals. Top scoring Offerors may be short listed and invited to interview (if necessary) for the project.

The successful Offeror(s) must be prepared to commence these services within seven (7) days of the issuance of a contract, valid City of Columbia purchase order, and Notice to Proceed, at the direction of the City of Columbia Community Development Director.

The City expects the work to begin on or around May 1, 2021 and be completed no later than January 1, 2023. The City intends to enter into a two-year agreement with the successful Offeror. The contract may have the option for two (2) additional one-year extensions, as needed.

A Non-Mandatory, but highly recommended, Pre-Proposal Meeting will be held virtually via a Zoom on **March 24, 2021 at 10:00 A.M. ET**.

The instructions for the Pre-Proposal Meeting are included below:

**Join Zoom Meeting**

<https://us02web.zoom.us/j/83857515991>

**Meeting ID: 838 5751 5991**

**One tap mobile**

**+19292056099,,83857515991# US (New York) 13017158592,,83857515991# US**

**+(Washington D.C)**

**Dial by your location**



+1 929 205 6099 US (New York)  
+1 301 715 8592 US (Washington D.C)  
+1 312 626 6799 US (Chicago)  
+1 669 900 6833 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)

Meeting ID: 838 5751 5991

Find your local number: <https://us02web.zoom.us/j/83857515991>

At a minimum, 30 minutes before the scheduled pre-proposal meeting, each participant shall provide their Name, Business/Organization represented, Telephone Number, Fax Number, and Email address. Information shall be provided to [procurement@columbiasc.gov](mailto:procurement@columbiasc.gov) and copy [kenton.davis@columbiasc.gov](mailto:kenton.davis@columbiasc.gov).

#### **IV. PROGRAMMATIC PROVISIONS**

The City is an equal opportunity employer and encourages Local Business Enterprise (LBE), Small, Women-owned, Minority, Veteran, or Disadvantaged or Historically Underutilized Business in accordance with SBA guidelines and/ or similar state or federal certification programs participation to the extent legally feasible.

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Enterprise Businesses (DBEs) including, but not limited to, Small Businesses (SBEs), Minority Businesses (MBEs), Women-Owned Businesses (WBEs). The City has implemented an overall citywide 15% goal to encourage socially and economically disadvantaged business participation. In an effort to encourage socially and economically disadvantaged business participation, this goal extends to Bidders, Offerors, Subcontractors and suppliers on its procurement and contracting offerings.

The following programmatic provisions, as indicated by the box or boxes checked by the City, apply to this solicitation and when applicable are required to be included in any agreement and maintained during the entire term (including any renewals or Additional Supplemental Services):

**LBE - The City of Columbia Local Business Enterprise policy applies to this solicitation.**

You do not have to be a LBE in order to submit a proposal for this project. For the purpose of ranking proposals submitted in competition for a qualifying contract valued above \$25,000 under a best value method of contracting wherein factors, other than price, are taken into consideration, the City shall evaluate any proposal submitted by an LBE by increasing its cost/price evaluation factor by five (5) percentage points. The certified LBE must be from the 8 county Combined Statistical Area (CSA) as defined in the City of Columbia's LBE policy and must also be registered with the City of Columbia's Compliance Office as a certified LBE before the proposal is submitted. Please see the City of Columbia's LBE policy on eBidcolumbiasc for details.

**MPP - The City of Columbia Mentor Protégé Program policy applies to this solicitation.**

This solicitation is a Mentor Protégé Program (MPP) project. Responses resulting from this solicitation will be considered Mentor Protégé Program (MPP) projects. Consultants submitting to this solicitation must identify a MPP team and confirm that the team is an approved MPP team prior to this solicitation closing. All MPP teams and Protégés must be approved by the City's Office of Business Opportunity (OBO), Compliance Division prior to the close of the solicitation. Once the work is recommended; Mentors are required to designate a minimum 20% of the total Agreement amount to the Team's protégé.

*Note: Processing of a fully completed MPP application may take up to 10 business days.*

**CDBE - The City of Columbia, Columbia Disadvantage Business Enterprise policy applies to this solicitation.**

This solicitation has been designated as a Columbia Disadvantaged Business Enterprise (CDBE) project. The required Subconsultant/Subcontractor participation for this solicitation is designated as X%. This participation must be reflected on the Appendix - *Business Information Record for Subconsultants/Subcontractors*. Please review the City of Columbia's CDBE policy at <https://columbiasc.ionwave.net> for details.

**Federal funding program provisions will apply to this RFP.**

**FEMA**     **CDBG DR**     **CDBG-MIT**     **Other**

Federal provisions require that every effort be made to use and contract with small, minority-owned and/or woman-owned businesses in the procurement process. The successful Offeror is required to solicit small, minority-owned and/or woman-owned businesses as subcontractors and potential partners on this project. The City will review the subcontractor business information record for this RFP for compliance to the Federal requirements. See Exhibit – *Conditions of Federal Funding and Federal Labor Standards Provision for Contracts*.

## **V. SCOPE OF SERVICES**

### **A. Licenses and Certifications.**

All Offerors shall possess a valid and current State of South Carolina Business License. Any Offerors/Respondents who do not possess a valid State of South Carolina Business License at the time submissions are due will be found non-responsive.

All Offerors shall possess a valid and current City of Columbia Business License at the time of the solicitation due date. Any Offerors/Respondents who do not possess a valid City of Columbia Business License at the time submissions are due will be found non-responsive.

### **B. Project Specific Licenses and Certifications**

All Offerors shall possess a valid and current South Carolina Real Estate Brokers License

**C. Services to Be Provided*****Task 1 – Brokerage Services for the Acquisition of Property***

The successful Offeror will provide site location, market analysis and acquisition support services to meet the City's needs for property purchases, to include, but not be limited to those services listed below, as requested by the City. Offerors should provide a thorough explanation of their proposed model for conducting brokerage services for the acquisition of real property, specifying any deviation from the services as detailed in the scope of work and including an evaluation of the tasks requested by the City and recommendations for any additional tasks that should be included and the rationale for inclusion.

At a minimum, the Broker Contractor will be responsible for the following:

1. Assist in the development of requirements for the site, working in collaboration with the appropriate City departments.
2. Present sites to the City staff for consideration, along with a thorough analysis of each potential site.
3. Conduct a comparative market analysis to validate offering price.
4. Draft option letter for presentation once a specific site has been selected, to include relevant federal requirements, if applicable.
5. Conduct negotiations with the seller on behalf of the City.
6. Support City staff and contractors, as needed, to complete an appropriate level of environmental review of the site, if requested.
7. Provide to the designated City staff, in a format agreed upon, a monthly report on the status of property search, option and projected closing.
8. Independently verify data supplied by the Seller by researching the records from the County. Identify potential restrictions or issues which could impede or negatively impact the intended use of the property by the City.
9. Ensure clear and marketable title can be secured, and title insurance issued.
10. Coordinate closing documents from the Seller's attorney to the City Attorney.
11. Represent the City at the closing, as requested.

**At all times, the selected Broker Contractor will maintain the confidentiality of the Client.**

***Task 2 – Brokerage Services for the Disposition of Property***

The City, at its option, may request the following types of services for the disposition of real property. The City anticipates these services may include those services listed below; however, if awarded, the Broker Contractor will perform the services as detailed in this proposal as recommended for the effective disposition of property and as negotiated and approved by the City. As such, Bidders should provide a thorough explanation of their proposed model for conducting brokerage services for the disposition of real property, specifying any deviation from the services as detailed in the scope of work and including an evaluation of the tasks requested by the City and recommendations for any additional tasks that should be included and the rationale for inclusion.

1. Market, in accordance with State and local laws concerning the sale of surplus real property, properties of all types, utilizing all appropriate methods to attract qualified buyers.

2. Provide a proposed listing price for each parcel to be listed for sale.
3. Provide a broker's price opinion (BPO) and/or appraisal to support the proposed sales price of the property.
4. Develop marketing materials to solicit potential buyers. Bidder will conduct any pre-proposal conferences and will be responsible for responding to all inquiries on behalf of and in consultation with the City.
5. Direct negotiations with adjoining property owners for any parcels whose primary value is in assemblage to their adjoining parcels.
6. Review and evaluate all submitted proposals and conduct due diligence to confirm the merits of any proposal received.
7. Independently verify data supplied by the City by further researching the records from the County, as well as identifying potential restrictions or issues which will affect the marketing potential of the properties.
8. Provide to the designated City staff in a format agreed upon a monthly report providing the status of the properties assigned to be sold.
9. Coordinate closing documents from the buyer's attorney for each transaction to the City Attorney.
10. Disclose to potential buyers that all properties are to be closed based upon the following conditions:
  - a. Property to be conveyed by Quit Claim Deed (?)
  - b. Quit Claim Deed to be prepared by City Attorney.
  - c. Buyer is responsible for all closing costs.
  - d. All sales contingent upon City Council approval of final sale.

**D. Ownership of Documents and Access to Records**

All data, documents or other information of any description generated by or used by the Consultant or any Subconsultant retained by the Consultant and related to the services required by this Agreement shall be the property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.

The Consultant shall make available for examination by the City all of its records with respect to all matters covered by the final agreement and shall maintain such records for a period not less than three (3) years after receipt of final payment under the Agreement.

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions

In addition, the following access to records requirements apply to the final agreement:

- The Consultant agrees to provide the City, and if at the City's direction, HUD, the Comptroller General of the United States, or other third party access to any books, documents, papers, and records of the Agreement that are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

- The Consultant agrees to permit any of the foregoing parties to reproduce, at the expense of the requestor, by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- All requests for access to Consultants records shall be made in writing.
- All specific City of Columbia IT requirements as listed within the Scope of Services Consultant's Responsibilities shall apply.

## VI. ELABORATION AND CLARIFICATION

Do not make assumptions about the meaning or accuracy of information contained herein. Ask for clarification of assumptions prior to submitting a response to this RFP. If you do not ask questions or clarify any assumptions, the City will assume that you agree with and understand the requirements in the RFP. Any clarification of assumptions and exceptions to the terms, conditions, provisions, and requirements must be specifically noted in the form of a question and submitted to the City by the date and time provided herein. The City will assume that any Offeror that responds to this RFP accepts all of the RFP terms, conditions, provisions and requirements, except as expressly and specifically stated by the Offeror in its response to this RFP.

**Exceptions to the terms, conditions, provisions, and requirements in this RFP and the sample contract terms and conditions, must be submitted in writing, clearly marked "Exceptions", by the question deadline.** Otherwise, the City will assume that any Offeror that responds to this RFP fairly accepts all of the RFP and sample contract terms, conditions, provisions and requirements. **The sample contract terms and conditions are provided in Exhibit – Sample Contract (Terms and Conditions).**

## VII. MANDATORY REQUIREMENTS AND SUBMITTAL FORMAT

All responses ***must*** be submitted to eBidcolumbiasc, the City's e-Procurement System at <https://columbiasc.ionwave.net/> no later than the date and time provided herein. Respondents **must** also deliver two (2) original **UNBOUND** copies, and five (5) digital copies (e.g., CD, USB flash drive) of the information requested herein.

Hardcopy submittals must be clearly labeled on the outside of the envelope with the following wording: "***RFP011-20-21-KDD Real Estate Services for Community Development Block Grant Mitigation Grant (CDBG-MIT)***" All late submittals will be rejected. The City is not responsible for late submissions caused by delays in mail delivery or a delay in any other method of delivery.

Responses must include all of the information required in this RFP, and may include any additional information that the Consultant deems pertinent to the understanding and evaluation of its response.

Within any areas where doubt regarding foregoing disclosure of material information, err on the side of disclosure. Unless Offeror clearly indicates otherwise, submitting a response constitutes the Offeror fully disclosed all material information.

Print size shall be 12 pt. font minimum, on 8½ by 11 paper, one-sided or two. One sheet printed on both sides counts as two pages. Submittals shall not exceed 25 pages (cover page, resumes, work samples, and appendices are excluded in the page count), and must include the following information divided by tabs:

### A. Certification Page

Provide a cover page that includes: Company Name, Address, Point of Contact (Email Address and Phone Number); ***RFP011-20-21-KDD Real Estate Services for Community Development Block Grant Mitigation Grant (CDBG-MIT)***; **DUNS Number (registration in SAM.gov required)**, Date of Submission, and include the signed certification below:

I certify that this submittal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a response to this RFP, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of the RFP and certify that I am authorized to submit this response. By submitting this response to the City of Columbia, I offer and agree that if the response is accepted, I will convey, sell, assign or transfer to the City of Columbia all rights, title, interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of South Carolina for price fixing relating to the particular commodities or services purchased or acquired by the City of Columbia. At the discretion of the City of Columbia, such assignment shall be made and become effective at the time the purchasing agency proffers final payment.

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Authorized Signature (Print)

---

Authorized Signature w/ Title

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E-mail Address

### B. Cover letter and Company Overview

The cover letter must include the following:

- a. Company's legal name and ownership, type of incorporation (if not incorporated, then type of business)
- b. Date of Incorporation
- c. Address
- d. Telephone number
- e. Email
- f. DUNS Number
- g. Federal Identification Number
- h. Unemployment Compensation Number
- i. NCAIS Code
- j. Brokerage License Number
- k. Company overview and principal type of business

- l. Describe (if applicable) any relationships with subsidiaries, parent corporations and affiliates, or other related company associations
- m. List of all offices and their addresses
- n. Company's website address
- o. Number of employees (retained consultants, subcontractors, and any other contract employees must be noted separately)
- p. Name of primary contact, and their physical address, email address, telephone and fax number
- q. Number of years that the company has provided the services required in the RFP

### **C. Experience, Qualifications and Technical Competence**

Provide evidence necessary to demonstrate that the Respondent meets the qualifications herein. If the following items are not evidence in your response, your proposal may be deemed non-responsive:

- a. General Qualifications and Capacity of the Company/Firm.
- b. Summarize the company's history and experience performing similar services for public entities, including the number of years of service.
- c. Qualifications, certifications, and relevant experience of the key individuals (Consultant and Subcontractors) providing services. A copy of current broker's license for any person who will be providing broker representation on behalf of the City must be provided.
- d. Experience of the Project Manager delivering similar projects, managing similar project teams, and providing project deliverables for multiple project areas obtained within the last five (5) years.

### **D. Proposed Project Approach, Availability, and Schedule**

Provide a detailed description of the proposed approach toward meeting the Scope of Services. At a minimum, the proposed approach should address the services noted under Section V. The proposed approach shall include but not be limited to the following:

- a. Description of approach, demonstrated understanding of the project and approach to scope of services.
- b. If the Offeror is proposing to use any subcontractors, describe its experience as a prime contractor managing subcontractors, and plan to manage and coordinate any proposed subcontractors
- c. How the Offeror will meet the requirements of the City.
- d. Ability of team to devote time and resources necessary to successfully complete the project in a timely manner.
- e. Accessibility of Project Manager and key personnel.
- f. Ability to meet accelerated timeline(s) and budget restraint(s).

The City is looking for Offeror's who can find solutions and bring value of additional service suggestions or other enhancements with their response. The Offeror shall include any additional service suggestions or other enhancements within this section of their response.

The Offeror shall outline its current and projected workload over the next twelve (12) months and state its commitment to provide the requested services while minimizing the impact on City staff and meeting its needs in a comprehensive approach.

The Consultant shall also provide a schedule to begin this project. In addition, the full name and address of the Consultant and the branch office that will perform the services shall be described therein.

### **E. Past Performance of Similar Projects**

The Offeror must provide an analysis of past projects of similar nature and complexity as listed in the scope of services within the past five (5) years. Pertinent information (type of Agreement work, Agreement amount, and list of proposed team member which had key roles and what those roles were) shall be included. Within the analysis of each project, the Offeror shall include details of "lessons learned" within the project where challenges rose up and how they were overcome.

The Offeror must provide Appendix - *Reference Questionnaire*, to at least three (3) references for similar work within the past five (5) years. A questionnaire may be provided to The City of Columbia that may be used as a fourth reference, if applicable.

References should be specific to a project managed by the proposed project manager. Reference information should be current and include complete contact information (company name, contact person's name and signature, address, direct phone number and e-mail address) for individuals with knowledge of the Offeror's completed work on projects that are substantially similar to the services outlined in this RFP. **The questionnaire must be completed and returned by the company (individual) providing the reference to the procurement lead by the date and time provided herein for submitting responses to this RFP.**

**Reference Questionnaires must be emailed to:** [Kenton.davis@columbiasc.gov](mailto:Kenton.davis@columbiasc.gov) by no later than **April 16, 2021** at 5:00 p.m. (ET).

### **F. Work Sample**

The Offeror must provide a work sample for similar work. These work samples should be for projects where references are provided. For each work sample, the Respondent shall indicate the roles and responsibilities of their project team member(s) for the relevant project, and may include a brief narrative regarding why the respondent feels this project is relevant to the City's project.

Provide a list of current contracts of similar size and scope



### **G. Cost Proposal and Staff Hourly Rates**

The Cost Proposal must be submitted in a separate sealed envelope. The envelope must have the Respondent's name, the project name and the RFP number prominently displayed, together with the words "COST PROPOSAL".

Bidders should submit a clear description of the compensation arrangement for Tasks 1, 2 and 3. For Task 4, provide a cost proposal including hourly rates, other charges, and a not-to-exceed amount.

Complete and return the Staff Hourly Rate sheet, Appendix – *Staff Hourly Rates*. Rates must include all costs associated with the Scope of Work (Section V) and terms and conditions as outlined in this RFP, Exhibit – *Sample Contract (Terms and Conditions)*. Please provide a brief description of each category including years of experience, certification, etc. Add additional categories if not provided in the rate sheet.

**Do not upload cost proposal and/or staff hourly rates documents to eBidcolumbiasc.** Costs must be provided in a separate envelope and with electronic copies of the submission.

### **H. Financial Stability**

Certify the Company is not delinquent paying taxes to the federal, state, or any other governmental authority.

Describe in detail if the company has filed for bankruptcy protection in the past five years or is currently in the process of filing or planning to file for bankruptcy protection or financial restructuring or refinancing.

All respondents must provide a Financial Statement of Responsibility. This should also include Balance Sheets and Statement of Net Income/Profit and Loss Statement for the last 3 financial audit periods in a separate sealed hand delivered/mailed envelope. **Please mark the Financial Statement documents “Confidential.” Do not upload Financial Statement documents to eBidcolumbiasc.**

### **I. Appendices**

The following appendices must be submitted with your response:

Organizational Conflict of Interest Statement

Prime Business Information Statement

Business Information Record for Subconsultants/Subcontractors

Small, Minority, Women-Owned Business Objectives and Labor Surplus Utilization Plan

Cost Proposal/Staff Hourly Rates

Non-Collusion Affidavit

Reference Questionnaire

Litigation and Claim History

Vendor Security Questionnaire

Conditions for Federal Funding

## **J. DBE and Subcontractor Participation**

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Enterprise Businesses (DBEs) including, but not limited to, Small Businesses (SBEs), Minority Businesses (MBEs), Women-Owned Businesses (WBEs). The City has implemented an overall citywide 15% goal to encourage socially and economically disadvantaged business participation. This goal extends to Offerors, Subcontractors, and suppliers on its procurement and contracting offerings.

Provide the estimated DBE percentage of participation and sub-consultant participation - Appendix *Subcontractor Business Information Statement*).

## **VIII. EVALUATION CRITERIA**

The City of Columbia will conduct a formal selection process to determine the best offer that meets the City's needs and budget. A selection committee will review all of the proposals and will determine the successful Offeror based on a variety of criteria including, but not limited to, the expected deliverables as outlined in the solicitation; proposals submitted including recommendations, qualifications and experience of the Offeror; the cost to the City, and any proposed value added services.

A committee will review each proposal based upon the evaluation criteria. The committee may produce a list of the top rated proposals (short list) and may recommend that top-rated Offerors will be selected for possible interviews. Offerors may or may not be interviewed and the City reserves the right to conduct interviews at its sole discretion.

The short listed Offerors may be contacted via telephone or e-mail to determine an interview date and time. Offerors should plan to have available, in person, key personnel who will be assigned to work on the proposed project. Individuals who fail to attend the interview may not be given a score which could jeopardize the Offeror's ranking.

Negotiations will be entered into with the highest ranked Offeror in an effort to agree on project approach, confirm pricing, and address any questions remaining after the selection process. If a successful contract cannot be negotiated with the highest ranked Offeror, negotiations will be undertaken with the next Offeror in order of ranked preference.

The City reserves the right to accept or reject proposals in part or in their entirety.

This RFP does not commit the City of Columbia to pay for direct or indirect costs incurred in the preparation or presentation of a response. All respondents will pay the direct or indirect costs incurred in preparing their proposals, making presentations, participating in interviews and for travel and accommodations.

The Evaluation Committee will review each proposal based upon the criteria listed below:

RFP Evaluation Criteria	Percentage (%)
<p><b>1. Proposed Project Approach, Availability, and Schedule</b></p> <ul style="list-style-type: none"> <li>a. Description of approach, demonstrated understanding of the project and approach to scope of services.</li> <li>b. If the Offeror is proposing to use any subcontractors, describe its experience as a prime contractor managing subcontractors, and plan to manage and coordinate any proposed subcontractors</li> <li>c. How the Offeror will meet the requirements of the City.</li> <li>d. Ability of team to devote time and resources necessary to successfully complete the project in a timely manner.</li> <li>e. Accessibility of Project Manager and key personnel.</li> <li>f. Ability to meet accelerated timeline(s) and budget restraint(s).</li> <li>g. Value of additional service suggestions or other enhancements</li> </ul>	<b>35%</b>
<p><b>2. Past Performance and References</b></p> <ul style="list-style-type: none"> <li>a. Review of past performance on projects of similar nature and complexity as the proposed project;</li> <li>b. Review of Work Samples provided</li> <li>c. Review of References questionnaires</li> <li>d. Litigation history</li> </ul>	<b>30%</b>
<p><b>3. Experience, Qualifications and Technical Competence</b></p> <ul style="list-style-type: none"> <li>a. General Qualifications and Capacity of the Company/Firm.</li> <li>b. Summarize the company's history and experience performing similar services for public entities, including the number of years of service.</li> <li>c. Qualifications, certifications, and relevant experience of the key individuals (Consultant and Subcontractors) providing services. A copy of current broker's license for any person who will be providing broker representation on behalf of the City must be provided.</li> <li>d. Experience of the Project Manager delivering similar projects, managing similar project teams, and providing project deliverables for multiple project areas obtained within the last five (5) years.</li> </ul>	<b>25%</b>
<p><b>5. Cost Proposal</b>            This will be evaluated by the Department of Procurement and Contracts.</p>	<b>5%</b>

<b>6. Financial Stability</b> This will be evaluated by the Finance Department	<b>5%</b>
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## IX. AWARD CRITERIA

It is in the sole discretion of the City to determine the award method. The City intends to award the highest ranked, responsive, and responsible Consultant whose response is determined to be the most advantageous to the City. Submittals must be responsive to all requirements.

Submittals will be evaluated per criteria listed in Section VIII. A committee will review each submittal based upon the evaluation criteria. The committee may produce a list of the top rated responses (short list) and may recommend the top-rated firms be selected for possible interviews and/or demonstrations. Firms may or may not be interviewed and the City reserves the right to conduct interviews and/or demonstrations at its sole discretion. The City reserves the right to conduct an interview and/or demonstration in cases where the determination is to award solely on the basis of the top rated, most responsive firm, without short listing.

In the event the City moves to an interview, interviews will be scored separately (see sample interview rating below). The highest ranked firm will be selected through the combined total score of their technical score (solicitation response) and interview score.

For the interview phase, a pre-set list of questions will be asked to each Consultant. The rating committee reserves the right to ask for clarification on any question or response to a question. Each Consultant must be interviewed separately. Firms will be scored in two areas, their overall presentation and their responses to the specific interview questions. Each Consultant will be rated on a scale of 25-13-1 for both categories.

- A “**25**” represents that the individual provides significantly higher value than the average interviewee (clearly shows differential, clearly shows that the individual has expertise doing this type of work, showcases an exemplary design and installation process).
- A “**13**” represents that the individual is about average (or there is insufficient information to make a clear decision)
- A “**1**” represents that the individual is significantly below the average (shows deficiency, provides no evidence to prove expertise doing this type of work)

Sample Interview Score Rating:

Category	Rating	Score
Presentation	25   13   1	
Interview Responses	25   13   1	
	<b>Total</b>	

Negotiations:

Upon selection of the highest ranked Proposer, the City may proceed to negotiations in the following manner:

1. Negotiate with the highest ranked Proposer on price, matters affecting the scope of the contract, so long as the changes are within the general scope of the Request for Proposal. If a satisfactory Agreement cannot be negotiated with the highest ranked Proposer, negotiations may be conducted, in the sole discretion of the procurement officer, with the second, then the third, and so on, ranked Proposers to the level of ranking determined by the officer in their sole discretion;
2. During the negotiations process as outlined in item (1) above, if the procurement officer is unsuccessful in their first round of negotiations, they may reopen negotiations with any Proposers with whom they previously negotiated; or
3. The procurement officer may make changes within the general scope of the Request for Proposal and may provide all responsive Proposers an opportunity to submit their best and final offers
4. The City may select to have a single prime Consultant as the result of any contract negotiation or may elect the option to select more than one Consultant. The Consultant(s) shall be responsible for all deliverables specified in the RFP and proposal. This general requirement notwithstanding, Respondents may enter into subcontractor arrangements, limited to one tier of subcontracting, however, shall acknowledge in their proposal total responsibility for the entire contract.

## X. TENATIVE SCHEDULE OF EVENTS

<b>Task</b>	<b>Date</b>	<b>Time (if applicable)</b>
RFP Issuance Date	March 16, 2021	
Non-Mandatory Pre-Proposal Meeting	March 24, 2021	10:00 a.m. (ET)
Last Day to Submit Questions	March 26, 2021	10:00 a.m. (ET)
Submittal Deadline	April 16, 2021	12:00 p.m. (ET)

## XI. GENERAL INFORMATION AND INSTRUCTIONS (as applicable)

### A. Procurement Process

The RFP is not a bid. In the event the City elects to negotiate a contract, any contract shall contain, at a minimum, the terms and conditions (or substantially the same terms and conditions) as provided in the appendices. The City reserves the right, in its sole discretion, to reject all submissions, reissue a subsequent RFP, terminate, restructure or amend this procurement process at any time. The final selection and contract negotiation rests solely with the City.

## B. Questions

Questions must be submitted to: <https://columbiasc.ionwave.net> (eBidcolumbiasc)

Using eBidcolumbiasc, the user must be logged in, and under the Bid tab, click “Bid Questions and Answers.” The deadline for additional information and questions is **March 26, 2021 by 10:00 A.M. (ET)**. The City will not accept telephone calls or visits regarding this RFP. No interpretation shall be binding unless in writing from the City of Columbia.

**No questions may be directed to or contacts made with the Mayor, other members of City Council, the City Manager, and other City Staff not identified in this RFP as points of contacts during the period of time that this RFP is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the contractor and/or consulting firm from further consideration.**

## C. Confidentiality

Unless otherwise required by law, and until the public opening of the proposals, all information, materials and other documents submitted by a respondent shall not be released or made available to any person or entity except City representatives assisting in this procurement process. Unless required by law, proprietary or financial information submitted to the City by a respondent will not be disclosed if the respondent visibly marks each part of the proposal that the respondent considers confidential, financial or proprietary information with the word “Confidential.”

## D. Respondent’s Duty to Inspect, Advise and Declare All Costs

Each respondent shall become fully acquainted with the City’s requirements and the scope of the services to be provided. Respondents have a duty to request any information from the City as it deems necessary to prepare the RFP. Such requests shall be made in compliance with Paragraph B of this section. No contract amendment will be granted or additional compensation permitted if it is based upon information that the respondent knew, or should have known, as part of the respondent’s duty to become acquainted with the City’s circumstances and requirements.

## E. Time for Receiving Proposals

Proposals submitted online prior to the time of opening will be encrypted and kept unopened. The official whose duty it is to open them will decide when the specified time has arrived, and no proposals there-after will be considered.

## F. Submittal of Proposals

All responses to this RFP must be clearly marked ***RFP011-20-21-KDD Real Estate Services for Community Development Block Grant Mitigation Grant (CDBG-MIT)***. A minimum of two (2) original **UNBOUND** copies, and five (5) digital copy containing the data requested shall be submitted. All proposal documents shall be submitted using <https://columbiasc.ionwave.net/> no later than **April 16, 2021 at 12:00 P.M.** and the CDs/flash drive and hard copies shall be submitted to City of Columbia Procurement and Contracts Department, 1800 Main Street, 2nd Floor,

Columbia, SC 29201. **All late proposals will be rejected.** The City is not responsible for late RFP's caused by delays in mail delivery or a delay in any other method of delivery. Proposals will be publicly opened at the date and time listed in above at 1800 Main Street, 2nd Floor, Columbia, SC in the 2nd floor conference room.

### **G. Acceptance and Rejection**

Any submittals that do not conform to the essential requirements of the RFP shall be rejected. The City reserves the right to waive informalities and minor irregularities in submittals and reserves the sole right to determine what constitutes informalities and minor irregularities. The City also reserves the right to accept or reject any or all proposals received in response to this RFP and to negotiate separately with competing respondents. The City is not obligated to enter into any contract on the basis of any submittal in response to this RFP. The City reserves the right to request additional information from any firm submitting under this RFP if the City deems such information necessary to further evaluate the firm's qualifications.

A proposal may be rejected at any time during the evaluation process and thereafter if there are any adverse findings that would prevent the Program from selecting the firm or any person or entity associated or partnering with the firm. Such adverse findings include, but are not limited to:

1. Negative findings from the HUD Office of Inspector General, South Carolina Inspector General or from the U.S. Government Accountability Office, or from an Inspector General in another state. Pending or unresolved legal action from the U.S. Attorney General or from an attorney general in South Carolina or another U.S. state.
2. Pending litigation within the City of Columbia, any municipality located in South Carolina or another U.S. state.
3. Suspension or debarment as ineligible on the System for Award Management (SAM)
4. Certify whether Offeror or its principals, or any of its subcontracting entities have any current or pending sale of tax lien or substantial local, state or federal tax arrears.
5. Fair Housing violations or current litigation.
6. Defaults under any Federal, State or locally sponsored program.
7. A record of substantial building code violations or litigation against properties owned and/or managed by the Offeror or by any entity or individual that comprises the Offeror.
8. Past or pending voluntary or involuntary bankruptcy proceeding.
9. Conviction for fraud, bribery or grand larceny by any principal of the Respondent.

### **H. Acceptance Period**

Any submittal in response to this solicitation shall be valid for 120 calendar days. At the end of this time the submittal may be withdrawn at the written request of the respondent if no award has been made. If the RFP is not withdrawn at that time, the submittal in its entirety, including the price structure, shall remain in effect.

### **I. Cancellation of Proposals**

Proposals may be cancelled prior to the time fixed for opening. Negligence on the part of the

Offeror in submitting the proposal confers no right for the withdrawal of the proposal after it has been opened.

### **J. Offerors Present**

At the time fixed for the opening of proposals, their contents will be made public for the information of Offerors and the general public. Offerors will not be permitted to examine the proposals until award is made.

### **K. Alternate Proposals**

Any proposal which does not conform to the specifications contained or referenced in the RFP may be rejected unless the invitation authorized the submission of Alternate Proposal and the equipment or supplies offered as alternates meet the requirements specified in the invitation.

### **L. Ambiguous Proposals**

Proposals which are uncertain as to terms, compliance to requirements and/or specifications shall be rejected.

### **M. Conflict of Interest; Contingency Fees; Non-Collusion Affidavit**

The following terms and conditions regarding Conflict of Interest, Contingency Fees, and Certification of Subcontractors will be included in the Agreement for this project.

1. Conflict of Interest. See Appendix – *Organizational Conflict of Interest Statement*. Respondents shall promptly notify the Contract Administrator or Procurement Manager, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the respondent's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest, or circumstance, the nature of work that such a person may undertake, and request an opinion of the City as to whether the association, interest, or circumstance would, in the opinion of the City, constitute a conflict of interest. The City will respond to such notification by certified mail within thirty (30) days.

By submitting this proposal, the respondent certifies that it has no conflict of interest with any employee, agent, elected official or officer of the city or any other conflict as may be set forth herein.

No direct or indirect contact with the mayor of the City of Columbia or City of Columbia Council members will be allowed. If such contact is made, the city reserves the right to reject the proposal.

2. Prohibition against Contingent Fees. The Respondent warrants that he and his Subcontractor(s) have not employed or retained any company or person other than a bona



Real Estate Services for Community Development Block Grant Mitigation Grant  
(CDBG-MIT)

fide employee working solely for the consultant or Subcontractor(s) to solicit or secure this Agreement and that he and his Subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Consultant or his Subcontractor(s) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of this Contract.

For any breach or violation of this provision, the City shall have the right to terminate the Agreement without liability and at its discretion to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment, or consideration.

3. Non-Collusion Affidavit. See Appendix – *Non-Collusion Affidavit*. More than one proposal from an individual, firm, partnership, corporation, association or related parties under the same or different names will not be considered. If the City believes that collusion exists among respondents, all proposals from the suspected firms will be rejected. “Related parties” means respondents or the principals thereof, which have a direct or indirect ownership or profit sharing interest in another respondent.

Respondents shall comply with all local, state, and federal directives, orders, and laws as applicable to this RFP and any resulting contract.

By responding to this RFP, respondents certify that the response is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item, and they certify the knowledge that this would constitute an illegal action.

#### **N. Protest Procedures**

1. Right to protest: Any actual or prospective Bidder, Offeror, respondent, or Subcontractor who is aggrieved in connection with the solicitation or award of a contract may protest to the appropriate procurement officer. The protest setting forth the grievance shall be submitted in writing within five (5) days after such aggrieved persons know or should have known of the facts giving rise thereto, but in no circumstance after 10 days of notification of the award of the contract.
2. Authority to resolve protests: The appropriate procurement officer shall have the authority, prior to the commencement of an administrative review as provided in this article, to settle and resolve a protest of an aggrieved Bidder, Offeror, respondent or Subcontractor, actual or prospective, concerning the solicitation or award of a contract. This authority shall be applied in a manner consistent with regulations or laws governing the procurement of supplies, services and construction for the City.
3. Decision: If the protest is not resolved by mutual agreement, the appropriate procurement officer shall issue a decision in writing within 10 days. The decision shall state the reasons for the action taken.
4. Notice of decision: A copy of the decision under Number 3 above of this section shall be mailed or otherwise furnished immediately to the protestant and any other party

intervening.

5. Finality of decision: A decision under Number 3 of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a review in writing, setting forth the grievance to the City Manager within 10 days of the decision. The protestant may also request an interview with the City Manager.
6. Request for review. The request for a review shall not stay the contract unless fraudulent.

#### **O. Sales Tax and/or Use Tax (April 2019)**

Upon submission of a bid or quote to the City, the Department of Procurement and Contracts will compute 8% sales tax when applicable (service or labor excluded) and include in the PO total, as applicable. The tax rate applied is in accordance to the SC Department of Revenue Sales and Use Tax Manual. Please also see Invoicing Procedures.

#### **P. Assignments**

No contract may be assigned, sublet, or transferred without a written consent of the City.

#### **Q. Manufacturers Brochures and Specifications Data**

Offerors shall submit manufacturer's brochures and specifications data as part of RFP response. Submittal of such data shall not be deemed a counter offer unless so noted in the RFP response sheet. Offerors failing to comply will be deemed non-responsive.

#### **R. Default**

In case of default, the City reserves the right to purchase any or all items and/or services on the open market, charging firm with any excessive costs. Should such charges be assessed, no subsequent bids and/or proposals submitted by the defaulting firm shall be considered until the assessed charges have been satisfied.

#### **S. Non-Appropriations**

Any contract entered into by the Offeror resulting from this request for proposal shall be subject to cancellation without damages or further obligation when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.

#### **T. Proposal Opening Delay**

If it becomes necessary to postpone a proposal opening, the procurement officer shall issue the appropriate amendments to the solicitation postponing or rescheduling the proposal opening. When the purchasing agency is closed due to force majeure, proposal opening will be postponed to the same time on the next official business day.

**U. Exceptions**

Notwithstanding any prior negotiations, the specifications and terms and conditions provided herein take precedence. Formal objection is hereby made to any or different terms proposed by Offerors unless listed on a separate sheet labeled “Exceptions”, and agreed to in writing by the City of Columbia.

**V. Affirmative Action Procurement and Contracting Goals**

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Enterprise Businesses (DBEs) including, but not limited to, Small Businesses (SBEs), Minority Businesses (MBEs), Women-Owned Businesses (WBEs). The City has implemented an overall citywide 15% goal to encourage socially and economically disadvantaged business participation. This goal extends to Offerors, Subcontractors and suppliers on its procurement and contracting offerings.

Additional information on the City’s affirmative action goals and objectives may be obtained by contacting the following office:

City of Columbia Office of Business Opportunities  
1401 Main Street, 4<sup>th</sup> Floor  
Columbia, SC 29201  
(803) 545-3950  
[www.columbiasc.gov/OBO](http://www.columbiasc.gov/OBO)

The City’s success in tracking the amount of business received by SBE, MBE and WBE FIRMS (whether as a prime consultant or Subcontractor) is dependent upon the business community partnering with us in this important endeavor.

Each firm submitting a bid, offer, or RFP shall ensure their proposed submittal identifies the percentage of subcontracting anticipated for this effort. Please complete the Small Business Form included in your bid packet and sign to certify if your business is a SMWBE and the anticipated percentage of work that you intend to subcontract to assist the City with its DBE goals.

**SUBCONTRACTING GOALS**

As a result of this contract/agreement, the subcontracting goals are as follows:

SB Goals	<u>N/A</u>	%
MBE	<u>N/A</u>	%
WBE	<u>N/A</u>	%
LSA	<u>N/A</u>	%

The respondent will also be expected to ensure Subconsultant performance during the period of performance and include optional periods as applicable. Achievement of these goals is expected during the life of the contract/agreement to include any changes incorporated by modification to

the contract/agreement.

By signing this bid proposal or Contract, as applicable, the Respondent or Offeror certifies that reasonable good faith efforts have been made to encourage participation of the aforementioned suppliers and Subcontractors and also have included certified minority and women-owned business enterprises on this project. Further, the Respondent or Consultant also certifies that the business will retain the documentation of these efforts and provide information to the City upon request.

The Successful respondent must comply with the terms and conditions as outlined herein. The Consultant, shall, in the performance of the contract/agreement, make constructive efforts to assist the City in complying with best practices in contracting as it relates to meeting affirmative action objectives.

### **W. Non-Discrimination in Contracting Policy**

In carrying out the service, the Contractor shall not discriminate against any employee or applicant for employment because of that employee or applicant's age, sex, gender, gender identity or expression, sexual orientation, race, religion, creed, color, disability, national origin, veteran or military status, political affiliation, or any other characteristic protected by federal, state, or local laws ("protected characteristic"). The Contractor shall take affirmative steps to ensure equal employment opportunities for all applicants for employment, without regard to their protected characteristics. For the purpose of this Non-Discrimination in Contracting Policy, the term "sex" includes medical needs and / or lactation needs arising from pregnancy, childbirth, or related medical conditions pursuant to the South Carolina Pregnancy Accommodations Act, 2018 S.C. Act No. 244. This Non-Discrimination in Contracting Policy extends to all aspects of the Contractor's operations, including, but not limited to the Contractor's employment practices (including selection, hiring, assignment, re-assignment, training, promotion, transfer, compensation, layoff, leave of absence, return from layoff or leave of absence, discipline, and termination); selection of volunteers and vendors, and provision of services. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this Non-Discrimination in Contracting Policy. The Contractor shall incorporate the provisions of this Non-Discrimination in Contracting Policy in all subcontracts for service work.

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## **XII. APPENDICES**

Organizational Conflict of Interest Statement

Prime Business Information Statement

Business Information Record for Subconsultants/Subcontractors

Small, Minority, Women-Owned Business Objectives and Labor Surplus Utilization Plan

Cost Proposal/Staff Hourly Rates

Non-Collusion Affidavit

Reference Questionnaire

Litigation and Claims History

Vendor Security Questionnaire

Conditions of Federal Funding

## **XIII. EXHIBITS**

City of Columbia Holiday Schedule

Sample Contract (Terms and Conditions)

Invoicing Procedures

Prompt Payment Affidavit

Conditions of Federal Funding

## APPENDIX - ORGANIZATIONAL CONFLICT OF INTEREST STATEMENT

The City is respectfully requesting information to ensure that any actual or potential Conflicts of Interest (COIs) are properly recorded, reviewed and addressed in a manner as deemed appropriate by the City. It is our goal to protect the integrity of the procurement process and to ensure that no unfair competitive advantages exists or existed during any stage of the process. The City, in its sole discretion, will take the steps required to neutralize, mitigate or to perform any other action to resolve any potential or actual conflict of interest if discovered during this discovery phase.

Some examples of COIs in an organization may include, but are not limited to the following:

- Unfair Advantage: Assisting or preparing the organization in crafting written specifications, scopes of work or statements of qualifications and subsequently responding to the solicitation.
- Potentially biased or impaired objectivity: Assisting the organization with evaluating or assessing the performance of products or services of other potential bidders and also submitting a response to the solicitation.
- Unequal access to information not shared with other potential bidders or respondents: Gaining access or pre-solicitation access to non-public information prior to official release (i.e. budget/funding information, procurement information, proposed evaluation criteria, prior award info obtained from the organization through non-FOIA means, etc.).

I, \_\_\_\_\_ (Offeror/Consultant), on behalf of myself and my company, and my subcontractors, if applicable, certify the following, under penalty of perjury, that to the best of my knowledge and belief:

1. No circumstances currently exist that create a Conflict of Interest in my performing the services required by the Solicitation to which I am responding or the Agreement to be signed if I am the successful Offeror in response to this Solicitation, and
2. I understand and acknowledge that my failure to disclose any affiliation or relationship that creates or may create a Conflict of Interest shall be deemed a material misrepresentation and sufficient reason for Offeror and Offeror's company to be disqualified, suspended, and/or excluded from participating in this and any future solicitation and procurements as well as removal from the City of Columbia vendor database. It may further result in termination of any contractual relationship with the City of Columbia and may be grounds for disciplinary action, up to and including debarment by the City, fines, penalties, imprisonment, or civil suit to be brought against Offeror or Offeror's company.
3. That to my knowledge, no employee or official of the City, nor any public agency or official affected by this Solicitation or the Agreement to be signed if I am the successful Offeror, has any pecuniary interest in the business of the Offeror's company or Offeror's Subcontractor(s), nor does Offeror or Offeror's Subcontractors have any interest that

would conflict in any manner or degree with the performance related to this Solicitation or Agreement.

4. I warrant that I and my Subcontractor(s), if any, have not employed or retained any company or person other than a bona fide employee working solely for the Offeror's company or Subcontractor(s) in order to solicit or secure an agreement with the City of Columbia, as related to this Solicitation or any resulting Agreement, and that I and my Subcontractor(s), if any, have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Offeror's company or Offeror's Subcontractor(s) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award of any Agreement.
5. I warrant and represent that my offer identifies and explains below any unfair competitive advantage I or my company or Subcontractors may have in competing for the Agreement to result from this Solicitation and any actual or potential conflicts of interest that may arise from my participation in this Solicitation or my receipt of an award. I acknowledge that the City intends by this statement to identify any and all potential conflicts of interest and unfair competitive advantages held by any Offeror, to prevent the existence of conflicting roles that might bias a consultant's judgment, and prevent one Offeror or company from having an unfair competitive advantage over other Offerors. The City, in its sole discretion, has the authority and responsibility to determine whether or not a conflict of interest or unfair competitive advantage exists, after a review of the relevant facts. I acknowledge and understand that if I or my company has an unfair competitive advantage or a conflict of interest; the City may withhold the award of this Agreement. Before withholding award on these grounds, an Offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered.
6. I have complied with the following:

“No questions (including Compliance Program related questions) may be directed to or contacts made with the Mayor, other members of City or County Council, the City Manager, other City staff not identified in this solicitation as points of contacts during the period of time that this solicitation is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the contractor and/or consulting firm from further consideration. All questions must be directed to the Procurement/Contracting Officer for this solicitation, listed on the cover page.”

**List any Actual or Potential Conflicts of Interest below or check the box below to certify that none exists. Failure to fully disclose information may result in penalties and/or sanctions as outlined in #2 above.**

**Please check only one box below.**

**No known actual or potential Conflicts of Interest are subject to disclosure.**

**All identified actual or potential Conflicts of Interest and/or Unfair Competitive advantage(s) are stated below and submitted for further review by the City of Columbia, SC.**

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7. I warrant that should I become aware of an actual or potential conflict of interest involving my company or Subcontractors, if any, in performing the services under the Agreement or responding to this Solicitation, I will notify the City immediately. I also warrant that should I become aware of any competitive advantage that my company or Subcontractors have in responding to this Solicitation or providing services under an Agreement related to this Solicitation, I will immediately notify the City of the discovery of a possible competitive advantage. I understand and acknowledge that this obligation to inform the City of the discovery of a conflict of interest or competitive advantage is a continuing obligation and extends throughout the Term of the Agreement for this procurement.
  
8. By signing this statement, I certify for myself and on behalf of my company and any of my Subcontractors that I have and will comply with, and have not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (Ethics Act). I acknowledge and understand that the City may rescind any Agreement and recover all amounts expended as a result of any action taken in violation of this provision. If I or my company or Subcontractors participate, directly or indirectly, in the evaluation or award of public Agreements, including without limitation, change orders, or task orders regarding a public Agreement, I shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Purchasing Agent at the same time the law required the statement to be filed.
  
9. **Has anyone in your company been privy to any information regarding this solicitation prior to the release date of the solicitation? If so, please explain.**

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**10. Prior to the solicitation release date, has anyone in your company attended any meetings, either internally or externally, where the above referenced solicitation was discussed either in whole or in part?**

Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Subscribed and sworn to before me**

**this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_**

\_\_\_\_\_  
**(Notary Public)**

**My commission expires \_\_\_\_\_**

# APPENDIX - PRIME BUSINESS INFORMATION STATEMENT

**Note: Form to be completed by the PRIME Vendor, Contractor or Consultant Only and submitted with your bid, proposal or response.**

Offeror/Respondent's Business Name: \_\_\_\_\_

Headquarters Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Local Office Address,  
if applicable: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Email address: \_\_\_\_\_

Tax ID No. (Soc. Sec. No., if Sole Proprietor): \_\_\_\_\_

**DUNS Number (Required) :** \_\_\_\_\_

Select One:     Corporation     Sole Proprietor     Partnership

\*Have you (as a Sole Proprietor), your business or anyone on the proposed team bidding on this project, ever been debarred or suspended? Yes\_\_\_ or No\_\_\_

\*Are you (as a Sole Proprietor), your business or anyone on the proposed team bidding currently involved in any litigation with the City? Yes\_\_\_ or No\_\_\_

(On a separate sheet or letter, please provide an explanation for any/all "Yes" responses).

**\*Note: Failure to fully disclose this information may automatically deem the Bidder/Offeror/Respondent non-responsive. All "Yes" responses are subject to further review by the City and may result in your bid/response being deemed non-responsive or bidder/Offeror deemed non-responsible.**

Business Contact Person to respond authoritatively to any questions about this statement:

Name/Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Form Completed by: \_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Date

**APPENDIX - BUSINESS INFORMATION RECORD FOR SUBCONSULTANTS/SUBCONTRACTORS**

The Bidder shall list all subcontractors and vendors, who will be providing subcontracting services, furnishing materials, etc. for this project. The list shall be submitted in the format provided below. Any proposed changes from the list shall be submitted in writing to the Owner prior to initiation of any action, with the reason for proposed changes.

**MUST BE TYPED AND REFLECT ONLY THOSE PROVIDING A SERVICE “NO LINE STRIKE THROUGH”**

<b>Business Name (as shown on W9 or SAM.gov) / DUNS # (REQUIRED)</b>	<b>City of Columbia Vendor number</b>	<b>Services and/or Materials Provided</b>	<b>Cost of Services and/or Material (\$ Value)</b>	<b>Percentage of Total Contract</b>	<b>MBE, WBE, SBE, DBE, LBE, CDBE (indicate all that apply)</b>	<b>Minority Association Code (If applicable - Use 2 letter Code - See Key Below)</b>
				%		
				%		
				%		
				%		
				%		
				%		

**Key: Minority/Women Owned Business Enterprise Association Code**

- |                                    |                                       |                                      |
|------------------------------------|---------------------------------------|--------------------------------------|
| <b>AF</b> – Asian American Female  | <b>AM</b> – Asian American Male       | <b>BF</b> – African American Female  |
| <b>BM</b> – African American Male  | <b>FB</b> – Non-Minority Female Owned | <b>HF</b> – Hispanic American Female |
| <b>HM</b> – Hispanic American Male | <b>NF</b> – Native American Female    | <b>NM</b> – Native American Male     |

**COMBINED TOTAL SUB AMOUNT \$** \_\_\_\_\_  
**TOTAL CONTRACT AMOUNT: \$** \_\_\_\_\_

I certify this information is true, correct, complete and active.

Business Name: \_-\_\_\_\_\_

Representative Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **Business Information for Subconsultants/Subcontractors- Continued**

**List information for each Subcontractor or Subconsultant below.**

1) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

\_\_\_\_\_  
Federal ID #

\_\_\_\_\_  
Vendor #

2) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

Federal ID #

Vendor #

3) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

\_\_\_\_\_  
Federal ID #

\_\_\_\_\_  
Vendor #

4) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

\_\_\_\_\_  
Federal ID #

\_\_\_\_\_  
Vendor #

5) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

\_\_\_\_\_  
Federal ID #

\_\_\_\_\_  
Vendor #

6) Subcontractors Company information (Primary/Main office location)

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Physical Address

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City/State Zip Code + 4

(\_\_\_\_) \_\_\_\_\_  
Phone number

(\_\_\_\_) \_\_\_\_\_  
Fax number

\_\_\_\_\_  
Primary Contact Name

\_\_\_\_\_  
Secondary Contact Name

\_\_\_\_\_  
Primary Contact Email Address

\_\_\_\_\_  
Secondary Contact Email Address

\_\_\_\_\_  
Federal ID #

\_\_\_\_\_  
Vendor #

**APPENDIX - SMALL, MINORITY, WOMEN-OWNED BUSINESS OBJECTIVES  
INCLUDING LABOR SURPLUS UTILIZATION PLAN**

**INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Small, Minority and Women-owned Business Enterprise (SMWBE) under the contract. This form includes federally required Labor Surplus Utilization efforts. Attach additional sheets if necessary.**

If you, as the Prime Offeror/Contractor/Consultant, are a SBE, MBE WBE, or other type of disadvantaged business enterprise, please check any of the following boxes which apply:

SBE       MBE       WBE       Other \_\_\_\_\_

1. In the spaces below, report the anticipated dollars that you intend to subcontract to each business type if a contract or agreement is awarded to your firm. (If you do not intend to subcontract any work to others, even if you are a S/M/WBE, put zeros in the spaces below).

Total **SBE Participation Percentage** to be subcontracted \_\_\_\_\_%

Total **MBE Participation Percentage** to be subcontracted \_\_\_\_\_%

Total **WBE Participation Percentage** to be subcontracted \_\_\_\_\_%

Total **Other DBE Participation Percentage** to be subcontracted \_\_\_\_\_%

2. If you are not a SBE, MBE, or WBE and you do not plan to utilize such firms in this agreement, please state your reasons and use an additional page if needed:

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**LABOR SURPLUS UTILIZATION PLAN**

**In accordance with federal requirements, the City also encourages the use of firms located in labor Surplus areas.** A Labor Surplus area is an area designated by the Secretary of Labor as having concentrated unemployment or underemployment in comparison with other areas. Used as one of the criteria for designating economically disadvantaged vendors/suppliers. **If your business is located in a labor surplus area, please check here:**

**Define the LSA here** \_\_\_\_\_

The City anticipates that this effort will be continued to the maximum extent practicable throughout the life of the contract or agreement. Any changes or modification to the contract/ agreement will include, at a minimum the same proposed goals included in the negotiated agreement/contract.

The goals provided by the Successful Offeror shall be incorporated into the final contractual agreement between the parties or as amended through final contract negotiations.

**By submitting this Form, the respondent certifies he/she is an authorized representative of the company, understands and will comply with all requirements herein in any awarded action.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**(Print Name)**

\_\_\_\_\_  
**Business Name**



## APPENDIX – COST PROPOSAL DETAIL SHEET

Name of Consultant		Date of Proposal	
Street Address		Federal ID Number	
City, State, Zip		DUNS Number	
<b>A. <u>Direct Labor</u> (specify personnel by name)</b> Attach a copy of the scope of services identified in the contract. Each task identified in the scope of services should be assigned an estimated amount of time for completion. The total amount of time identified on the scope of services should correspond to the estimate in this section.			
<b>Personnel Name</b>	<b>Est. No. of Hours</b>	<b>Hourly Rate</b>	<b>Est. Cost</b>
1.			
2.			
3.			
4.			
<b>5. Total Direct Labor</b>			
<b>B. <u>Overhead/Indirect Costs</u></b>		<u>Rate</u>	<u>Base</u>
			<u>Est. Cost</u>
<b>C. <u>Other Direct Costs</u></b>			
Transportation	Est. # of site visits	Rate	Est. Cost
Per Diem	Est. No. of Days	Daily Rate	Est. Cost
Production	Est. No. of Pages	Page Rate	Est. Cost
Other (specify)			\$
1.			\$
2.			\$
3.			\$
4.			\$
<b>5. Total Other Direct Costs</b>			<b>\$</b>
<b>D. <u>Subcontracts</u></b>			
Name of Subcontractor(s)	Est. No. of Days	Daily Rate	Est. Cost
1.			
2.			
<b>3. Total Subcontractor Costs</b>			
<b>Total Estimated Costs (Line A5+B+C5+D3)</b>			<b>\$</b>
Profit			\$
<b>TOTAL PRICE – YEAR ONE</b>			<b>\$</b>

Name of Consultant		Date of Proposal	
Street Address		Federal ID Number	
City, State, Zip		DUNS Number	
<b>A. <u>Direct Labor</u> (specify personnel by name)</b> Attach a copy of the scope of services identified in the contract. Each task identified in the scope of services should be assigned an estimated amount of time for completion. The total amount of time identified on the scope of services should correspond to the estimate in this section.			
<b>Personnel Name</b>	<b>Est. No. of Hours</b>	<b>Hourly Rate</b>	<b>Est. Cost</b>
1.			
2.			
3.			
4.			
<b>5. Total Direct Labor</b>			
<b>B. <u>Overhead/Indirect Costs</u></b>	<u>Rate</u>	<u>Base</u>	<u>Est. Cost</u>
<b>C. <u>Other Direct Costs</u></b>			
Transportation	Est. # of site visits	Rate	Est. Cost
Per Diem	Est. No. of Days	Daily Rate	Est. Cost
Production	Est. No. of Pages	Page Rate	Est. Cost
Other (specify)			\$
1.			\$
2.			\$
3.			\$
4.			\$
<b>5. Total Other Direct Costs</b>			\$
<b>D. <u>Subcontracts</u></b>			
Name of Subcontractor(s)	Est. No. of Days	Daily Rate	Est. Cost
1.			
2.			
<b>3. Total Subcontractor Costs</b>			
<b>Total Estimated Costs (Line A5+B+C5+D3)</b>			<b>\$</b>
Profit			\$
<b>TOTAL PRICE – YEAR TWO</b>			<b>\$</b>
<b>TOTAL PRICE – TWO YEAR TOTAL</b>			<b>\$</b>

**APPENDIX– NON-COLLUSION AFFIDAVIT**

State of \_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_ being first duly sworn, deposes and says that:

(1) He is \_\_\_\_\_ of \_\_\_\_\_, the Offeror that has submitted the attached Response:

(2) He is fully informed respecting the preparation and contents of the attached Response and of all pertinent circumstances respecting such Response:

(3) Such Response is genuine and is not a collusive or sham Response:

(4) Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Offeror, firm or person to submit a collusive or sham in connection with the Contract for which the attached Response has been submitted or to retain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the **City of Columbia, S.C.** or any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Response are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

(Signed)\_\_\_\_\_

\_\_\_\_\_

(Title)

**Subscribed and sworn to before me**

**this \_\_\_\_\_ day of \_\_\_\_\_,20 \_\_\_\_\_**

\_\_\_\_\_

**(Notary Public)**

**My commission expires \_\_\_\_\_**

## APPENDIX - REFERENCE QUESTIONNAIRE

**Instructions: Respondents will complete the top section of the reference questionnaire and supply to their Reference to complete.**

Past Performance Survey of: \_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Name of Individual)

**Instructions: References will complete the following section about the Respondent and return this form directly to the City of Columbia. Please email the completed survey to **Kent Davis** [kenton.davis@columbiasc.gov](mailto:kenton.davis@columbiasc.gov). Thank you for your time and effort in assisting the City of Columbia in this important endeavor.**

The City of Columbia is collecting past performance information on consultants and their key personnel. The information will be used to assist the City in the selection of consultants to perform various projects. The firm/individual listed above has listed you as a client for which they have previously performed work on. We would appreciate your taking the time to complete this survey.

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge in a particular area, please leave it blank.

Reference Name: \_\_\_\_\_ Date/Year of Project: \_\_\_\_\_

Reference Phone: \_\_\_\_\_ Reference Email: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Description: \_\_\_\_\_

NO	CRITERIA	UNIT	RATING
1.	Ability to meet customer expectations	(1-10)	_____
2.	Ability to maintain project schedule (completed on time or early)	(1-10)	_____
3.	Ability to manage project costs (minimal change orders)	(1-10)	_____
4.	Ability to identify and minimize the users risk	(1-10)	_____
5.	Ability to increase value	(1-10)	_____
6.	Coordination of activities and documentation	(1-10)	_____
7.	Accessibility and communication	(1-10)	_____
8.	Leadership ability (minimize the need of owner direction)	(1-10)	_____
9.	Your comfort level in hiring the firm/individual again based on performance	(1-10)	_____
10.	Overall customer satisfaction	(1-10)	_____

Signature of person completing this questionnaire:

\_\_\_\_\_

## APPENDIX – LITIGATION AND CLAIM HISTORY

Has your company ever failed to complete work awarded to it?  Yes  No

If yes, please provide project name(s), contact information for owner, year(s), and reason why.  
Attach relevant documentation.

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Have you ever paid liquidated damages on any project?  Yes  No If yes, state the project name(s), year(s), and reason why.

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Has your company filed any legal claims associated with any work your company has performed within the last five years?

Yes  No If yes, state the entity name(s), year(s), case number, and reason why.

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Has your present company, its officers, owners, or agents ever been convicted of charges relating to conflicts of interest, bribery, or bid-rigging?  Yes  No If yes, state the entity name(s), year(s), and reason why:

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Has your present company ever been suspended or debarred?  Yes  No If yes, state the year(s) and reason why:

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**DEPARTMENT of INFORMATION TECHNOLOGY**

1401 Main Street, 10<sup>th</sup> Floor  
Columbia, SC 29201

Tel: 803-737-4210  
Fax: 803-737-4228

# Vendor Security Questionnaire

**Purpose:** This Vendor Security Questionnaire requests information concerning a Cloud Service Provider (the Vendor), which intends to provide to the City of Columbia any or all of the following services: Software as a Service (SaaS); Platform as a Service (PaaS); and Infrastructure as a Service (IaaS).

**Note/Instructions:**

SaaS, PaaS and IaaS are each a ‘cloud’ servicing model, in which software and database applications, computer network infrastructure and/or computer hardware/software platforms is/are hosted by the Vendor and made available to customers interconnected to a network, typically to the Internet.

This Questionnaire is for the sole use of the intended Vendor and may contain confidential information of individuals and businesses collected, stored, and used the City. Any unauthorized collection, storage, use, review or distribution may be prohibited by South Carolina and/or Federal laws. If you are not the intended recipient of this Questionnaire, please contact the sender by e-mail and destroy all copies of the Questionnaire.

The Vendor shall provide answers to the questions or information to the requests provided below.

In the event that the Vendor determines that it cannot meet the City’s security and or privacy requirements, the Vendor may submit a request for an exception to the City’s requirements and propose alternative countermeasures to address the risks addressed in this Questionnaire. The City’s Chief Information Officer may approve or reject the exception request, depending on the risks associated with the exception request.

**Vendor Information:**

Vendor Organization Name	
Address	
Information Security Contact Person Name	
Email	
Phone	
Date this Questionnaire Completed	



**DEPARTMENT of INFORMATION TECHNOLOGY**

1401 Main Street, 10<sup>th</sup> Floor  
Columbia, SC 29201

Tel: 803-737-4210  
Fax: 803-737-4228

**1.0 BUSINESS PROCESS AND DATA EXCHANGE REQUIREMENTS**

	<b>Question</b>	<b>Response from the Solution Provider</b>	<b>Additional Information</b>
1.1	Please provide a detailed description of the Solution Provider's business process that will be offered to the City, as this relates to the proposed requirements of the City's RFP or other business requirements		
1.2	Has the Solution Provider adopted and implemented information security and privacy policies that are documented and conform to ISO 27001/2 – Information Security Management Systems (ISMS) Standards or NIST 800-53 (National Institute of Standards – NIST Special Publication (SP) 800-53 Revision 4, Security and Privacy Controls for Federal Information Systems and Organizations) Please provide proof of certification		
1.3	What data exchange will occur between the City and the Solution Provider? What data will be stored at the Solution Provider's or other third party's data storage location?		
1.4	What mechanism and/or what types of tool(s) will be used to exchange data between the City and The Solution Provider? Example: (VPN,		



**DEPARTMENT of INFORMATION TECHNOLOGY**

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Columbia, SC 29201

Tel: 803-737-4210  
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		Data Link, Frame Relay, HTTP, HTTPS, FTP, FTPS, etc.)			1.5 What types of data storage work in progress storage and backup? storage is present or will be required at the Solution Provider's site?
		1.6 Is e-mail integration required between the City and the Solution Provider? Example: The provision of services may require the City to provide the Solution Provider with an e-mail account on the City's exchange server.			1.7 Has the Solution Provider ever been subjected to either an electronic or physical security breach? Please describe the event(s) and the steps taken to mitigate the breaches. What damages or exposure resulted? Are records of breaches and issues maintained and will these records be available for inspection by the City?
		1.8 What are the internet and the browser security configurations for the cloud application?			





**DEPARTMENT of INFORMATION TECHNOLOGY**

1401 Main Street, 10<sup>th</sup> Floor  
Columbia, SC 29201

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**2.0 APPLICATION/SOLUTION CONFIGURATION**

#	Question	Response from The Solution Provider	Additional Information
2.1	What is the name of the application(s) that the Solution Provider will be hosting in order to provide services to the City? (List all)		
2.2	What functionality will be provided to the City's employees or the City's customers or other recipient of City services through the application?		
2.3	Will the Solution Provider use a subcontractor and/or a third party service provider? (List all). If yes, then what data privacy and information security agreements are in place between the Solution Provider and any subcontractor/third party to ensure appropriate and accountable treatment of information?		
2.4	Does the Solution Provider's ensure segregation of the City's data(Provide detail)		
2.5	Describe the Solution Provider's server and network infrastructure. Please provide server and network infrastructure deployment topology, including data flow architecture, including but not limited to security management applications etc.		
2.6	Please provide solution architecture, secured data flow to support business processes, etc.)		



**DEPARTMENT of INFORMATION TECHNOLOGY**

1401 Main Street, 10<sup>th</sup> Floor  
Columbia, SC 29201

Tel: 803-737-4210  
Fax: 803-737-4228

**3.0 DATA PROTECTION**

#	Question	Response from the Solution Provider	Additional Information
3.1	What will be the medium of data exchange between the City and Solution Provider?		
3.2	How will the data be kept secure during the data exchange process? Example: (VPN, Data Link, Frame Relay, HTTP, HTTPS, FTP, FTPS, etc.) Provide Diagram		
3.3	How will the City's data be kept physically and logically secure at the Solution Provider's preferred storage location? Is there Backup Power? Example: Locked storage, Digitally, Encrypted etc.		
3.4	What application level protections are in place to prevent the Solution Provider's or a subcontractor/third party's staff member from viewing unauthorized confidential information? For example, encryption, masking, etc.		
3.5	What controls does the Solution Provider exercise over the qualification and performance of its team? Of the Subcontractor's/third party's team(s)? (For example, criminal background verification prior to employment, providing security training after employment and managing		



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**4.0 DATA BACK-UP and RETENTION**

#	Question	Response from the Solution Provider	Additional Information
4.1	What are the Solution Provider's method(s) used to keep data secured during the data backup process?		
4.2	Is the Solution Provider's encryption technology used to encrypt all or selective data?		
4.3	What types of storage media will the Solution Provider use for data backup purposes? For example, Tape, Hard Disk Drive or any other devices.		
4.4	Are the Solution Provider's backup storage devices encrypted? If 'yes,' please provide encryption specification, with type of encryption algorithm and detail process of encryption handling. If 'no,' provide a detailed description (with processes, tools and technology) to keep data secured during the back-up process.		
4.5	What is the Solution Provider's standard data retention period? The City's Policy for data retention is seven years.		
4.6	Are the data backup storage media at the Solution Provider's location		
4.7	If the Solution Provider's backup storage devices are stored with another company, please provide		



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<p>contact information What guarantee security compliance from these Solution Providers</p>		
<p>4.8 What is the media transfer process (I.e. The lock box process used to send tapes off-site)</p>		
<p>4.9 What is the backup data storage media receipt and release authorization process?</p>		

**5.0 ACCOUNT PROVISIONING AND DE-PROVISIONING**

#	Question	Response from the Solution Provider	Additional Information
5.1	What is the account provisioning process?(Example: how are users accounts created and managed?)		
5.2	What is the account removal process?		
5.3	What is the account de-provisioning/removal process? Example: how are users accounts created and managed?)		
5.4	How will the City's employees gain access to required application(s)?		
5.5	Does the application(s) have the capability to restrict access only from the City's Network? Explain technology used (IP list, geofence, etc.)		



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**6.0 PASSWORD MANAGEMENT**

#	Question	Response from the Solution Provider	Additional Information
6.1	<p>The Solution Provider's application must comply with City's password policy:</p> <p>City of Columbia systems force expiration of network account passwords every 60 days. Users will be prompted to change their password 15 days prior to password expiration. City of Columbia systems retain a history of three passwords. This means that the last three passwords cannot be reused. When the password is changed, the account owner must create a password that is different from the last three passwords. IT strongly encourages account owners to avoid reusing old passwords. Users can only change passwords once in a 24-hour period.</p>		
6.2	<p>It must be at least six characters in length. (Longer is generally better).</p> <p>1. It must contain at least one alphabetic and one numeric character to meet the complexity rules.</p>		



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<p>2. It must contain upper and lowercase characters.</p> <p>3. It must be significantly different from previous 3 passwords.</p> <p>4. The system will only allow one password change in 24 hours.</p>		
<p>6.3 Does the Solution support LDAPS or Active Directory integration for login credentials?</p>		



**APPENDIX – CONDITIONS OF FEDERAL FUNDING FOR CONTRACTS  
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE  
AGREEMENTS**

(to be submitted with each bid or offer exceeding \$100,000)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Consultant/Contractor Authorized Official

\_\_\_\_\_  
Name and Title of Consultant/Contractor Authorized Official

\_\_\_\_\_  
Date

## EXHIBIT - CITY OF COLUMBIA HOLIDAY SCHEDULE



The following is the Holiday schedule for calendar year 2021

<b>Holiday – 2021</b>	<b>*Official &amp; Designated Day – Date - 2021</b>
New Year’s Day	Friday – January 1, 2021
Martin Luther King, Jr. Day	Monday – January 18, 2021
Friday before Easter	Friday – April 2, 2021
Memorial Day	Monday – May 31, 2021
Juneteenth	Friday – June 18, 2021
Independence Day	Monday – July 5, 2021
Labor Day	Monday – September 6, 2021
Thanksgiving Day	Thursday – November 25, 2021
Day After Thanksgiving Day	Friday – November 26, 2021
Day in conjunction with Christmas	Friday – December 24, 2021
Monday After Christmas	Monday – December 27, 2021





## EXHIBIT – SAMPLE CONTRACT (TERMS AND CONDITIONS)

### AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is being awarded under procurement method RFP002-20-21-KDD Program Management Services for Community Development Block Grant Disaster Recovery Grant (CDBG-DR).

1. **PURPOSE** – This Agreement is entered into as of the date of the last signature affixed hereto, by and between the City of Columbia, South Carolina (hereinafter referred to as the "City") and Name of Firm, (hereinafter referred to as the ""), to sentence for purpose providing CDBG-DR program management for the City of Columbia, SC.

For and in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

2. **SCOPE OF SERVICES** – Upon written notification by the City to proceed, the Consultant shall provide the scope of services more fully described in Exhibit A, attached hereto. The Consultant shall perform any and all incidental services not specifically set forth in Exhibit A, which are necessary to fully complete the scope of services described in Exhibit A.
3. **SUPPLEMENTAL OR ADDITIONAL SERVICES** – The City may require supplemental or additional services of the Consultant or recommended by the Consultant and approved by the City in writing.

The Consultant must obtain written approval from the City for any supplemental or additional services prior to the work being performed. If the Consultant fails to obtain prior written approval to perform the work, the City is under no obligation to compensate the Consultant for services performed.

4. **TERM OF AGREEMENT** – The term of the Agreement is the date of the execution of this *Award* or a *Notice to Proceed* for an initial term of two (2) years, with the option to renew or continue with work for two (2) additional one-year (1) periods at the mutual pleasure of both parties.

The decision whether to extend the Agreement, upon written request, shall be the sole and exclusive discretion of the City and neither party shall be under any obligation to agree to an extension of the initial term or any additional term.

5. **SCHEDULE FOR COMPLETION OF SERVICES** – The Consultant shall complete any and all services performed under this Agreement within the timeframes as outlined in Exhibit B, attached hereto.
6. **COMPENSATION** – (See Exhibit C)

A. The total compensation to be paid by the City to the Consultant under this Agreement shall not exceed i.e. Dollar amount, Dollar amount Dollars and XX/100 (\$XXX,XX.XX).

B. The Consultant shall submit invoices no more frequently than monthly for services rendered during each phase of the Project. Each invoice submitted must describe the services for which payment is requested, show payment calculations and specify the person(s) rendering such service(s). Consultant must invoice monthly regardless of work being completed during that period. If no work is completed, a zero balance invoice should be submitted. **Each invoice must also clearly identify any portion of the fee invoiced for subcontracted services, including any such services that are specified in the Summary of Proposed Subs shown on Exhibit D hereto.** Each invoice shall bear the signature of the Consultant, whose signature shall certify that the information contained in the invoice is true and accurate and that the invoice amount is currently due and owing. The City will not pay interest or penalty on any past due amount.

C. Invoicing Procedure: (per Invoicing Procedures)

Failure of the to follow these invoice requirements will result in the delay of payment of the invoice.

D. Prompt Payment to Subs and Material Suppliers (Use Prompt Payment Affidavit)

1. The is required to pay all Subs and material suppliers for all work that the Sub has satisfactorily completed, no later than twenty (20) calendar days after the Consultant has received payment from the City.
2. In addition, all retainage amounts received from the City by the Consultant must be paid by the Consultant to the Sub no later than fourteen (14) calendar days after the Sub has, in the opinion of the Assistant City Consultant for Construction or his/her designee, satisfactorily completed its portion of the Work.
3. A delay in or postponement of payment to the Sub or material supplier requires good cause and prior written approval of the City's Assistant City Consultant for Construction or his/her designee.
4. The Consultant is required to include, in each Subcontract, a clause requiring the use of appropriate arbitration mechanisms or other method to resolve all payment disputes.
5. The City will not pay the Consultant for subsequent work performed unless and until the Consultant ensures that the Subs have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing of City lien waivers, canceled checks (if requested), and the Consultant's sworn statement that it has complied with the prompt payment requirements. The

Consultant must submit a Prompt Payment Affidavit, Sub list that identifies each Sub (both Disadvantaged Business Enterprises (DBEs) and non-DBEs) including Subcontract values and the date and amount of the last payment to such Sub(s). That documentation must be provided with every payment request submitted to the City, except for the first payment request.

6. Failure to comply with these prompt payment requirements is a breach of this Agreement. The City reserves the right to pursue any and all remedies permitted under law for breach of contract, including, but not limited to, Consultant debarment.

E. Affirmative Action Procurement and Contracting Goals:

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Business Enterprises (DBEs) including, but not limited to, Small Business Enterprises (SBEs), Minority Business Enterprises (MBEs), and Women-Owned Business Enterprises (WBEs). The City has implemented an overall citywide 10% goal to encourage socially and economically disadvantaged business participation. This goal extends to bidders, contractors, Subs and suppliers on its procurement and contracting offerings.

Additional information on the City's affirmative action goals and objectives may be obtained by contacting the following office: City of Columbia Office of Business Opportunities, 1401 Main Street, 4<sup>th</sup> Floor, Columbia, SC 29201, (803) 545-3950.

The City's success in tracking the amount of business received by SBE, MBE and WBE firms (whether as a prime Consultant or Sub) is dependent upon the business community partnering with the City in this important endeavor.

The Consultant must comply with the affirmative action terms and conditions as outlined herein. The Consultant, shall in the performance of the Agreement, make constructive efforts to assist the City in complying with best practices in contracting as it relates to meeting affirmative action objectives

F. Subcontracting Goals

Under this Agreement, the subcontracting goals are as follows:

SB Goals	_____	%
MBE	_____	%
WBE	_____	%
LSA	_____	%

The Consultant will ensure Sub performance during the period of performance, and optional periods as applicable. Achievement of these goals is expected during the life of the Agreement, including any extensions thereof.

7. **MENTOR-PROTÉGÉ PROGRAM** (<http://www.columbiasc.net/business-outreach/>) **NON-APPLICABLE** – The City of Columbia encourages, where economically feasible, establishment of mentor-protégé relationships to ensure contracting opportunities for all businesses, including minority / women / small business enterprises. The Mentor-Protégé Program (MPP) helps develop private sector business relationships and enhances the contracting capabilities of minority-owned business enterprises (MBE), women-owned business enterprises (WBE), and small business enterprises (SBE). In order to provide opportunities for growth and to encourage hands-on business relationships, certain capital improvement projects may be designated by the City of Columbia as Mentor-Protégé Program projects. The City of Columbia has determined that participation in the City’s Mentor-Protégé Program is required for this project. The MPP goals for this requirement are

The Consultant must comply with Mentor-Protégé Program Guidelines. The Consultant agrees that the Mentor Protégé Program does not create any third-party

beneficiary status or contractual rights and/or duties between the City and the Protégé and that the City is not a party to the Implementation Plan. The Consultant agrees that it has or will enter into a separate contractual Agreement with the Protégé to which the City is not a party.

## 8. INDEMNIFICATION & INSURANCE

- A. The Consultant shall procure and shall maintain during the life of this Agreement, whether such operation be by itself or by a Sub or anyone directly or indirectly employed by either of them, such insurance as required by statute, ordinance, or this Agreement, to adequately protect the City from any claims or damages including bodily injury or death, which may arise during performance and operations under this Agreement.

Each insurance policy required by these instructions shall be endorsed to state that coverage shall not be suspended, voided, OR cancelled by either party, reduced in coverage or in limits, unless thirty (30) days prior written notice, by certified mail, return receipt requested, has been given to the City.

Workers Compensation Insurance: The Consultant shall procure and shall maintain during the life of this Agreement, Workers Compensation Insurance for all employees to be engaged in work on the project under this Agreement, and in case any work is subcontracted, the Consultant shall require the Sub similarly to provide Worker Compensation Insurance for all of the latter employees to be engaged in such work unless such employees are covered by the protection afforded by the Consultant's Worker Compensation Insurance. The Consultant shall not permit any person who is not protected by Workers Compensation Insurance or a properly approved Self-Insured Workers Compensation Program to perform any activity related to this Agreement.

General Liability: The Consultant shall provide to the City evidence of General Liability insurance in an amount not less than One Million Dollars and no/100

(\$1,000,000) per occurrence, and Two Million Dollars and no/100 (\$2,000,000) dollars aggregate in accordance with the current Code of Ordinances, City of Columbia, South Carolina, which can be located at [www.columbiasc.net](http://www.columbiasc.net).

Professional Liability: Professional Liability Insurance in an amount not less than One Million Dollars and No/100 (\$1,000,000.00) per occurrence, and Two Million Dollars and No/100 (\$2,000,000.00) Aggregate.

Automobile Liability Insurance: Five Hundred Thousand Dollars and No/100 (\$500,000.00) combined single limit per accident for bodily injury and property damage.

- B. The Consultant shall furnish the City with a certificate showing satisfactory proof of carriage of the insurance required hereunder and such insurance shall be approved by the City prior to the Consultant and any Sub of the Consultant commencing any services under this Agreement and this insurance shall remain in effect throughout the term of this Agreement, and any extensions of service. Insurance shall remain in effect for the duration of the project and for a period of one (1) year after completion. The City of Columbia shall be the Certificate Holder and shall be named as an *Additional Insured*.
- C. The Consultant shall indemnify, defend, hold harmless and reimburse the City, its agents, and employees from and against any and all losses, liabilities, expenses, and all claims for damages of any nature whatsoever relating to or arising out of any action or failure to act by Consultant, its Subs, officers, agents and employees of any of the obligations under the Agreement. Losses, liabilities, expenses and claims for damages shall include, but will not be limited to, civil and criminal fines and penalties, loss of use or services, bodily injury, death, personal injury, or injury to real or personal property, defense costs, legal fees and costs, and attorney's fees for an appeal.

The Consultant will also agree to promptly notify the City of any civil or criminal actions filed against the Consultant or of any notice of violation from any federal or state agency, or of any claim as soon as practical as relates to the services provided under this Agreement. The City, upon receipt of such notice, shall have the right at its election to defend any and all actions or suits or to join in defense.

## 9. PERMITS & LICENSES

- A. The Consultant shall be responsible for obtaining any approvals, permits and/or licenses as may be required of the Consultant in performing the services required under this Agreement. The Consultant shall be responsible for any costs relating to same.
- B. The Consultant shall be responsible for identifying the necessity for and providing any applications and supporting documentation to the City for any approvals and/or permits required of the City in order for the Consultant to perform the services required under this Agreement. Such approvals and/or permits may include, but not be limited to, South Carolina Department of Health and Environmental Control (SCDHEC) Construction Permits, SCDHEC Stormwater Management for Construction Sites Permits, SCDHEC Water Resources Permits, Corps of Consultants Permits, City/County/ South Carolina Department of Health and Environmental Control (SCDOT) Encroachment Permits, encroachment permits for other utility rights-of-way and railroad right-of-way encroachment permits/agreements. The City shall obtain the approvals and/or permits identified by the Consultant and pay any costs relating to same.
- C. The Consultant shall answer questions and consult with the City and/or appropriate authorities as necessary to assist the City's efforts in obtaining required permits/approvals.



D. The Consultant shall procure a City of Columbia business license while performing services under this Agreement.

10. **DUTIES UPON TERMINATION** – At termination of this Agreement, the Consultant shall immediately provide the City with all records and data in any format the Consultant is capable of producing and at no cost to the City, which were generated, created or received by the Consultant in performance of the services required by this Agreement or as the City may deem necessary to perform the required services by the City or the Consultant’s successor. All records shall be free from any proprietary claims or interest. The Consultant agrees to fully cooperate with the City and any successor to ensure an effective transition to continuously provide the required services.

11. **INTEREST OF CONSULTANT** – The Consultant covenants that Consultant presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or which is adverse to the interests of the City. The Consultant further covenants that in the performance of this Agreement no person having such interest shall be employed.

The Consultant is expected to make Consultant's services available to other entities but agrees to refrain from representing other entities in matters where the position of the City conflicts with that of the other entity. The City may at its discretion, waive this provision. The Consultant has provided a list of all of its clients with whom there may be potential conflicts with the City. This list shall be supplemented throughout the duration of this Agreement.

12. **TERMINATION OF AGREEMENT** – The City may terminate this Agreement at any time upon any of the following grounds:

A. Failure by the City to appropriate funds for the performance of any of the services required in this Agreement in any annual budget;

- B. The Consultant fails to perform any of the services required in this Agreement and does not correct such deficiency within fifteen (15) days after being notified by the City of such deficiency;
- C. Force Majeure;
- D. The City, at its sole option and discretion, has the right to terminate this Agreement for any reason whatsoever. A termination for default under this Agreement, if wrongfully made, shall be treated as a termination for convenience under this clause;
- E. Upon expiration of the term of this Agreement; and
- F. By mutual agreement.

Notice of termination shall be sent by registered mail, return receipt requested. In the event of termination, the Consultant shall only be entitled to the actual direct costs of all labor and material expended on the services required under this Agreement prior to the effective date of the termination or the Consultant shall be entitled to be paid a pro-rata percentage of the total Agreement price which is equal to its percent of completion, whichever of the two methods provides the lowest sum to be paid to the Consultant. In no event shall the Consultant be entitled to anticipatory profit or damages for any termination under this Agreement. In no event shall the Consultant be entitled to assert a claim in quantum meruit or any other measure of damages other than that stated herein.

13. **OWNERSHIP OF PROJECT** - All data, documents or other information of any description generated by or used by the Consultant or any Sub retained by the Consultant and related to the services required by this Agreement shall be the

property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.

14. **OWNERSHIP OF PROJECT DOCUMENTS** - All data, documents or other information of any description generated by or used by the Consultant or any Sub retained by the Consultant and related to the services required by this Agreement shall be the property of the City and shall not be used by the Consultant for any purpose whatsoever except to perform the services required by this Agreement.

15. **NOTICE** - All notices and communications in connection with this Agreement will be addressed to the following:

**CITY OF COLUMBIA**

Name: Office of Procurement and Contracts  
Title: Purchasing Agent  
Address: 1800 Main Street  
Second Floor  
Columbia, SC 29201  
Phone: (803) 545-3470  
Fax: N/A  
Email: [procurement@columbiasc.gov](mailto:procurement@columbiasc.gov)

**NAME OF FIRM**

Name: Name  
Title: Position Title  
Address: Address  
City, State, Zip  
Phone: ###-###-####  
Fax: ###-###-####  
Email: name@\_\_\_\_.com,

16. **CONSENT DECREE - Non-Applicable**

A. The services performed by the Consultant pursuant to this Agreement are required in whole or in part to satisfy the terms of the Consent Decree entered by the United States District Court for the District of South Carolina on May 21, 2014, in the case captioned *The United States of America and State of South Carolina by and through the Department of Health and Environmental Control v. City of Columbia*, Civil Action No. 3:13-2429-TLW (the "Consent Decree"), a copy of which has been provided to the Consultant by the City and is incorporated by reference herein. The Consultant shall perform the services pursuant to this Agreement in conformity with the terms of the Consent Decree as required by Paragraph 5 therein.

- B. In addition to the requirements above, the Consultant shall comply with the document retention requirements of Paragraph 68 of the Consent Decree which includes, but is not limited to, the obligation to preserve all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in the Consultant's possession or control that relate in any manner to the Consultant's performance under this Agreement ("Preserved Documents"). Upon the Consultant's performance of all services required under this Agreement, the Consultant shall provide the City with all Preserved Documents. In addition to the requirements above, the Consultant shall provide the City with all Preserved Documents upon termination of this Agreement.
- C. Upon the occurrence of a force majeure event as defined in Paragraph 55 of the Consent Decree, the Consultant shall provide notice to the City's Director of Community Development in person, by phone, or by electronic mail within twenty-four (24) hours of when the Consultant first knew or should have known that the event might cause a delay. Within three (3) days thereafter, the Consultant shall provide written notice in accordance with Section XII above to include the following information: an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken in an effort to prevent or minimize the delay; a schedule for implementation of any measures to be taken in an effort to prevent or mitigate the delay or the effect of the delay; and the Consultant's rationale for attributing such delay to a force majeure event. The Consultant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure event.
- D. The Consultant shall reimburse the City the amount of any stipulated penalties imposed on the City pursuant to Paragraph 47 of the Consent Decree if the Consultant neglects, fails, or refuses to meet the deadlines set forth in Exhibit

C attached hereto. The Consultant agrees that any failure to meet such deadlines will result in the City's failure to meet the deadlines set forth in the Consent Decree except in the event of force majeure notice by the Consultant that results in the extension of said deadline by the U.S. Environmental Protection Agency under the Consent Decree. The City reserves all other remedies available for the Consultant's failure to perform pursuant to the Agreement.

- E. The Consultant shall perform the services pursuant to this Agreement using sound Consulting practices as set forth in Paragraph 9 of the Consent Decree.

## 17. MISCELLANEOUS

- A. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.
- B. The Consultant shall be responsible for performance of all services required by this Agreement. The Consultant does not act as the City's agent or employee.
- C. The Consultant will not assign or sublet its obligations to perform the services required by this Agreement without the written consent of the City. The Consultant shall be as fully responsible to the City for the acts and omission of its Subs, as it is for the acts and omissions of persons directly employed by the Consultant.

The Consultant shall furnish and its Subs shall furnish all information and reports required hereunder.

- D. In the event there are any disagreements between the City and the Consultant with regard to any of the requirements, specifications or interpretation of this Agreement, the Consultant agrees to defer to the reasonable interpretations of

the City as, from time to time, may be made by the City. Ambiguities in the terms of this Agreement, if any, shall not be construed against the City.

- E. This Agreement shall be construed in accordance with the laws and City of Columbia Code of Ordinances and those of the State of South Carolina. The Consultant agrees to subject itself to the jurisdiction and venue of the courts of Richland or Lexington County, State of South Carolina as to all matters and disputes arising or to arise under this Agreement and the performance thereof. The City may seek attorney's fees and the Consultant agrees to pay such fees as awarded by the Court or other body. No attorney's fees may be sought by, nor will be paid to, the Consultant.
- F. This Agreement represents the entire agreement between the City and the Consultant and supersedes all prior communications, negotiations, representations or agreements, either written or oral. The parties may amend this Agreement at any time provided that such Amendments are executed in writing, signed by a duly authorized representative of both organizations, and approved, where applicable, by the City's governing body.

The City may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such Amendments result in a change in the funding, the scope of services, or schedule of, the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by written amendment signed by both the City and the Consultant.

- G. The failure of either the Consultant or the City to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of this Agreement at any time. Partial payment by the City shall

not be construed as a waiver. Waiver of any breach of this Agreement shall not constitute waiver of a subsequent breach.

H. In the event any provision of this Agreement is determined to be void or unenforceable, all other provisions shall remain in full force and effect.

I. This Agreement is subject to City Council approval.

J. The Consultant acknowledges, for itself and its Subs, that it is subject to the provisions of the 1991 Ethics Reform Act (8-13-100, et seq, South Carolina Code of Laws, 1976, as amended). Under this Act, "A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with intent to:

1. influence the discharge of a public official's, public member's, or public employee's official responsibilities;
2. influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or,
3. induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

"Anything of value" includes, but is not limited to, lodging, transportation, entertainment, food, meals, beverages, money, gifts, honorariums, discounts and interest-free loans.

K. In carrying out the service, the Contractor shall not discriminate against any employee or applicant for employment because of that employee or applicant's age, sex, gender, gender identity or expression, sexual orientation, race,

religion, creed, color, disability, national origin, veteran or military status, political affiliation, or any other characteristic protected by federal, state, or local laws ("protected characteristic"). The Contractor shall take affirmative steps to ensure equal employment opportunities for all applicants for employment, without regard to their protected characteristics. For the purpose of this Non-Discrimination in Contracting Policy, the term "sex" includes medical needs and / or lactation needs arising from pregnancy, childbirth, or related medical conditions pursuant to the South Carolina Pregnancy Accommodations Act, 2018 S.C. Act No. 244. This Non-Discrimination in Contracting Policy extends to all aspects of the Contractor's operations, including, but not limited to the Contractor's employment practices (including selection, hiring, assignment, re-assignment, training, promotion, transfer, compensation, layoff, leave of absence, return from layoff or leave of absence, discipline, and termination); selection of volunteers and vendors, and provision of services. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this Non-Discrimination in Contracting Policy. The Contractor shall incorporate the provisions of this Non-Discrimination in Contracting Policy in all subcontracts for service work.

- L. This Agreement shall be binding upon the respondent and upon its successors and assignees. This Agreement shall be binding upon the City in accordance with its terms and provisions.
- M. All of the reports, information, data, records or documents of any kind, prepared or assembled by the Consultant under this Agreement are matters of public record, but that the Consultant agrees that they shall only be made available to any individual or organization by the City and the Consultant shall not make them available to any individual or organization without the prior written approval of the City.



N. Every exhibit, schedule and appendix attached to this Agreement and referred to herein is hereby incorporated into this Agreement by reference unless this Agreement expressly provides otherwise. This Agreement, exhibits and other documents include, but are not limited to the Conflict of Interest Statement, Non-collusion Affidavit, Business Information Record for Subs /Subcontractors, Local Business Enterprise, and Mentor Protégé Implementation forms are incorporated by reference in this Agreement and set forth the entire understanding between the parties hereto regarding the subject matter hereof.

18. **TERMS AND CONDITIONS** - Federal Funding Conditions: The Consultant must comply with the conditions of federal funding as follows:

1. **ANTI-KICKBACK ACT OF 1986:** Prohibits any payment or gratuity made for the purpose of inducing award of a subcontract or prime contract with the federal government. The Consultant shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by the sub consultants with such regulations, and shall be responsible for the submission of affidavits required of subconsultants thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

2. **DEBARMENT, SUSPENSION, AND INELIGIBILITY:** The Consultant represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status by any federal, state, or local regulatory authorities.

3. **UNIFORM ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES 2 CFR 200:** which revises the following, 24 CFR 570.502, 570.610 Consultant shall comply with the requirements and standards of OMB Circular A-122, "Cost Principles for Non-profit Organizations", OMB Circular A-133, "Audits of Institutions of Higher Education, and Other Non-profit Institutions". Audits shall be conducted annually. Consultant shall also comply with the provisions of OMB Circular A-110, "Uniform Administrative Requirements", implemented at

24 CFR Part 84, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations or the related HMGP provisions.

4. AMERICANS WITH DISABILITIES ACT: Consultant agrees to comply fully with any and all provisions of the Americans with Disabilities Act (hereinafter referred to as "ADA") as applicable with the Consultant and the activities to be performed by Consultant under the scope of this Agreement. If employing more than fifteen (15) employees, Consultant agrees to comply fully with Title I of the "ADA" as set forth at 28 CFR Part 130. If providing "public accommodations" as defined by the Act in Section 301(7)(A) -(L), Consultant agrees to comply fully with Title III of the "ADA" as set forth at 28 CFR Part 36. If providing public transportation, Consultant agrees to comply fully with the federal regulations as set forth at 49 CFR Parts 37 and 38.

5. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT: The Consultant will comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401-7671(q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387).

The Consultant will report each violation to the City, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office (EPA).

The Consultant agrees to include these requirements in each subcontract exceeding Twenty-Five Thousand Dollars (\$25,000.00) financed in whole or in part with federal assistance provided by FEMA.

6. Every exhibit, schedule and appendix attached to this Agreement and referred to herein is hereby incorporated into this Agreement by reference unless this Agreement expressly provides otherwise. This Agreement, exhibits and other documents include, but are not limited to the Scope of Services and Schedule, Fee, Sub Form, Invoicing Procedures, Prompt Payment Affidavit, the Conflict of Interest Statement, Non-collusion

Affidavit, Local Business Enterprise, and Mentor Protégé Implementation forms are incorporated by reference in this Agreement and set forth the entire understanding between the parties hereto regarding the subject matter hereof.

7. The Consultant acknowledges that Federal Emergency Management Agency (FEMA) and Hazardous Mitigation Grant Program (HMGP) financial assistance will be used to fund the Agreement only. Successful Consulting will comply with all applicable federal law, regulations, executive orders, FEMA policies, HMGP policies, procedures, and directives.

8. AMENDMENTS: The parties may amend the Agreement at any time provided that such amendments are executed in writing, signed by a duly authorized representative of both parties, and approved, where applicable by the City's governing body. The City may in its discretion, amend the Agreement to conform with federal, state, or local governmental guidelines, polices and available funding amounts, or for other reasons. If such amendments result in a change on the funding, the scope of services, or schedule of, the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by written amendment and signed by both parties.

9.. The City will maintain oversight to ensure the Consultant performs in accordance with all terms, conditions and specifications. The Consultant will be responsible for performance of all services required by the Agreement.

Name of Firm  
Project Name

Witness the parties' respective hands and seals on the date first written below.

**CITY OF COLUMBIA, SOUTH CAROLINA**

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Teresa Wilson, City Manager**

**Date:** \_\_\_\_\_

**NAME OF FIRM**

\_\_\_\_\_  
**Print: Name/Title**

\_\_\_\_\_  
**Signature**

**Date:** \_\_\_\_\_

***Space Left Intentionally Blank***

### **List of Exhibits**

Exhibit A – Scope of Services

Exhibit B – Schedule for Completion of Services

Exhibit C – Compensation

Exhibit D – Business Information Statement for Subconsultants/Subcontractors

Sample

## **EXHIBIT – INVOICING PROCEDURES**

1. The City's Project Manager or his/her designee must review all invoices prior to payment.
2. The Consultant's invoice must contain sufficient detail by task and resource and should be easily traceable to the work completed on the project schedule. Descriptions used in the project schedule shall match those descriptions contained in the Consultant's invoice. The work completed on the Consultant's project schedule must be the basis for full or a percentage of payment for work completed on the Consultant's invoice.
3. The work completed on the Consultant's project schedule must be the basis for full or a percentage of payment for work completed on the Consultant's invoice.
4. The Consultant will not request payment for taxes on Professional Services, labor, or installation fees.
5. The Consultant will not invoice, or request payment for any equipment or services that may be specified in this Agreement prior to the delivery of said equipment or performance of said services.
6. The Consultant shall adhere to an agreed-upon delivery schedule for equipment and/or services. This is to ensure that the City does not pay for the advanced delivery of equipment that was not approved for delivery and/or have to warehouse or make space for unanticipated equipment deliveries. Exceptions to this requirement must be approved by the City's designated Project Manager and Purchasing Agent in writing.
7. All invoices shall include a valid Purchase Order number on the bill. If an approved emergency purchases are required for any reason before a purchase order number is available, a copy of the emergency request for purchase should accompany the Consultant's invoice.
8. The Consultant shall name a representative that will be responsible for reviewing all invoicing concerns that the City may have regarding this project.
9. The Consultant shall submit receipts for all actual expenses.
10. Travel expenses including airfare and car rental shall be invoiced at cost, without markup and with approved documentation (Note: This section does not apply to travel within the Columbia region for work being performed for the Agreement. It pertains to ***approved*** travel to and from Columbia if necessary to fulfill the terms of the Agreement.). Travel expenses apply only if applicable and approved by the City.
11. Lodging shall be invoiced up to the per diem rate according to the General Services Administration (GSA) rates established at [www.gsa.gov](http://www.gsa.gov), based on the date of travel. Lodging expenses apply only if applicable and approved by the City.
12. Field documents and other equipment/supplies shall be invoiced at cost only, with no markup, and the invoice must be submitted with approved documentation (packing slip/vendor invoice).
13. Other required non-labor expenses that may be applicable to the project and pre-approved by the City's designated Project Manager shall be invoiced at cost only, with no markup, and the invoice must be submitted with approved documentation (packing slip/vendor invoice).
14. Each invoice/payment request shall identify the percentage and dollar amount that will be paid to the Subconsultant and/or vendor for work performed and materials/products furnished. If required, the Consultant shall submit supporting documentation as required by the designated point of contact to support the amount being invoiced.
15. The Consultant shall provide the names of the Subconsultants and/or vendors and a description of the work performed in the invoice/request for payment. The Consultant shall also provide a breakdown of the supplies and materials being billed by each Subconsultant and/or vendor and the dollar amount to be reimbursed by the City.

## EXHIBIT - PROMPT PAYMENT AFFIDAVIT

[Consultant] will place a check in the appropriate box below that applies to this payment request.

Re: Payment Request No. \_\_\_\_\_

I, \_\_\_\_\_ (Name), the \_\_\_\_\_ (Title - e.g., President, Vice President, etc.) of \_\_\_\_\_ ("Company"), do state the following with regard to payments made under Contract No. \_\_\_\_\_ ("Contract"):

1. \_\_\_ [Subconsultant], at the first tier, both DBE and non-DBE, who completed work and were listed for payment on the prior Payment Request No. \_\_\_\_\_, were paid no later than twenty (20) calendar days after Company received payment from the City.

2. \_\_\_ Copies of invoices and cancelled checks for [Subconsultant] at the first tier who were paid under the prior payment request have been delivered or mailed to the Construction Management Division. In addition, Company has attached to the current Payment Request all lien waivers for prior subcontractor payments and any other documentation required by the City. (Failure to attach all required documentation to the Payment Request or forward cancelled checks and invoices to the City's Project Manager may cause the Payment Request to be rejected by City.)

3. \_\_\_ All retainage amounts withheld from any [Subconsultant] who satisfactorily completed its portion of the contract work, including punch list items, were paid to the [Subconsultant](s) no later than fourteen (14) calendar days after it satisfactorily completed its work, whether or not City has paid said retainage amounts to [Consultant]. Attach a copy of the cancelled check evidencing payment of each retainage amount.

4. \_\_\_ There was no delay in or postponement of any payment owed to a [Subconsultant], whether periodic payment or retainage amount, except for good cause and after receipt of prior written approval from the [City's Project Manager].

Attach a copy of the written approval from the City of Columbia.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Date: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT - CONDITIONS OF FEDERAL FUNDING**



**Community Development Block Grant  
Mitigation Program**

**Conditions of Federal Funding**





The contractor acknowledges that federal financial assistance will be used to fund the Contract. Contractor will comply with all applicable federal law, regulations, executive orders, and agency policies, procedures, and directives.

The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

***Compliance with Federal Regulations: The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from HUD.***

**1. RELIGIOUS ACTIVITIES 24 CFR 570.200 (j)**

As a general rule, in accordance with First Amendment Church/State Principles, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities, except as cited at 24 CFR 570.200(J)(1)(2)(3).

**2. POLITICAL ACTIVITIES 24 CFR 570.207**

CONTRACTOR will comply with this section, which prohibits the use of CDBG funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration.

a) HATCH ACT CHAPTER 15, TITLE 5, U.S. CODE

CONTRACTOR further agrees that none of the personnel employed in the administration of the within defined Project shall be in any way or to any extent, engaged in the conduct of political activities in contravention of Chapter 15, Title 5, U.S. Code.

**3. OTHER PROGRAM REQUIREMENTS 24 CFR**

CONTRACTOR shall carry out its activities in compliance with all Federal laws and regulations as described in 24 CFR 570.600-570.612, except that CONTRACTOR will not assume the CITY'S environmental responsibilities described at 24 CFR 570.604, nor the CITY'S responsibility for initiating the review process under the provisions of 24 CFR Part 58.

**4. GENERAL-24 CFR 570.600**

CONTRACTOR agrees to comply with such laws and Program requirements as are applicable to grants made under section 106 of Title I of the Housing and Community Development Act of 1974.

**5. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964--24 CFR 570.601 FAIR HOUSING ACT-24 CFR 570.601 EXECUTIVE ORDER 11063--24 CFR 570.601**

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964, P.L. 88-352; the Fair Housing Act; and Executive Order 11063, as amended by Executive Order 12259; and HUD regulations at 24 CFR Part 1, providing for non-discrimination on the grounds of race, color, creed, sex, familial status, disability, or national origin under any activity receiving Federal funds and also obligating CONTRACTOR to use Federally-funded property for the purpose for which the Federal funds were awarded.

**6. SECTION 109 OF THE ACT--24 CFR 570.602 AGE DISCRIMINATION ACT of 1975--24 CFR 570.602(c) SECTION 504 OF THE REHABILITATION ACT OF 1973--24 CFR 570.602(c)**

This Agreement is subject to Section 109 of the Housing and Community Development Act of 1974, The Age Act of 1975, and Section 504 of the Rehabilitation Act of 1973, which requires that no person in the United States shall, on the grounds of age, race, color, national origin, disability, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part with Community Development Block Grant funds.

**7. SECTION 3 (IF APPLICABLE)**

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Contractor, the Subcontractor and any of the Subcontractor's Subcontractors. Failure to fulfill these requirements shall subject the Contractor, the Subcontractor and any of the Subcontractor's Subcontractor, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Contractor certifies and agrees that no contractual or other disability exist which would prevent compliance with these requirements. The Contractor further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

The work to be performed under this contract is an activity assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Community Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the activity area and contracts for work in connection with the activity be awarded to business concerns that provide economic opportunities for low-and very low- income persons residing in the metropolitan area in which the activity is located."

The Contractor further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation, housing construction, or other public construction activity are given to low and very low-income persons residing within the metropolitan area in which the CDBG funded activity is located; where feasible, priority should be given to low- and very low-income persons within the service area of the activity or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection to housing rehabilitation, housing construction, or other public construction activity are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which CDBG-funded activity is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low -income residents within the service area or neighborhood in which the activity is located, and to low- and very low-income participants in other HUD programs.

**8. LABOR STANDARDS & DAVIS BACON ACT 24 CFR 570.603 (IF APPLICABLE)**

Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance provided under the Act. The Contract Work Hours and Safety Standards Act also applies. Contractors or subcontractors on construction work shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. Contractor will comply with the following conditions:

- a) Overtime requirements. No contractor or sub-contractor 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 he or she is employed on such work to work in excess of forty 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 forty hours in such workweek.
- b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the contractor and any sub-contractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and sub-contractor 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 paragraph (A) of this section, 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 forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- c) Withholding for unpaid wages and liquidated damages. The City 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 sub-contractor under any such contract or any other Federal contract with the same prime contractor, 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 sub-contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- d) Subcontracts. The contractor or sub-contractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) of this section 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 sub-contractor with the clauses set forth in paragraphs (A) through (D) of this section.

**9. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 USC 3701-3708)**

When applicable all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704, as supplemented by the Department of Labor Regulations (29 CFR Part 5) Under 40 USC 3702 of the Act, each contractor must 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.

**10. ENVIRONMENTAL STANDARDS 24 CFR 570.604**

This Agreement is subject to the National Environmental Policy Act of 1969, as detailed in implementing regulations 24 CFR Part 58. No funds related to the project or activity can be obligated or expended until an Environmental Clearance Authorization is completed and the contract is executed. Any expenditures for a program that takes place before the execution of a contract and the completion of the Environmental Clearance cannot be reimbursed. The City is responsible for providing the Contractor the HUD required Environmental Clearance Authorization.

**11. NATIONAL FLOOD INSURANCE PROGRAM 24 CFR 570.605**

This Agreement is subject to the Flood Disaster Protection Act of 1973, and the regulations in 44 CFR Parts 59 through 79.

**12. DISPLACEMENT, RELOCATION, ACQUISITION, AND REPLACEMENT OF HOUSING 24 CFR 570.606**

CONTRACTOR shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations, and farms) as a result of activities pursuant to Part 570.606. Relocation of displaced persons shall be provided in conformance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 as amended.

**13. EMPLOYMENT AND CONTRACTING OPPORTUNITIES 24 CFR 570.607**

CONTRACTOR shall comply with Executive Order 11246, as amended by Executive Order 12086, which provides for Equal Employment Opportunity, and Section 3 of the Housing and Urban Development Act of 1968, with implementing regulations at 24 CFR Part 135. Section 3 requires that employment and other economic development opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be given to low- and very low-income persons.

**14. LEAD-BASED PAINT 24 CFR 570.608**

This Agreement is subject to the regulations at 24 CFR Part 35, prohibiting the use of lead- based paint in residential structures constructed or rehabilitated with assistance provided pursuant to Part 570.608; notification of hazards of lead-based paint poisoning; and elimination of lead- based paint hazards.

**15. USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS OR CONTRACTORS 24 CFR 570.609**

This Agreement is subject to the requirements set forth in 24 CFR Part 5, in which is incorporated 24 CFR Part 24, which provides for the listing of debarred and suspended participants, participants declared ineligible, and participants who have voluntarily excluded themselves from participation in covered transactions pursuant to Part 24.

The Contractor is subject to non-procurement Debarment and Suspension Regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. pt. 180 (2 C.F.R. §200.212). The Agreement is a covered transaction for the purposes of C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor(s), its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. §180.905) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).

Execution of the Contract is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, sub-part C and 2 C.F.R. pt. 3000, sub-part C in addition to remedies available to the State of South Carolina Emergency Management Division and the City of Columbia, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The Contractor shall comply with the requirements of 2 C.F.R. pt. 180, sub-part C and 2 C.F.R. pt. 3000; sub-part C during the duration of the project and throughout the period that may arise from this project. The Contractor further agrees to include a provision requiring such requirements in its lower tier covered transactions throughout the duration of this contract.

The Contractor shall notify the City, if your firm or sub-contractor(s) becomes suspended or debarred during the course of this project. This Contract may be terminated in accordance with the Termination for Cause provisions contained elsewhere in the contract.

**16. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL FUNDS – 2 CFR PART 200**

CONTRACTOR shall comply with the requirements and standards of this Super Circular.

**17. CONFLICT OF INTEREST 24 CFR 570.611**

This Agreement is subject to the general rule that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the CITY as Recipient, or of any designated public agencies, or of CONTRACTOR who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted pursuant to Part 570.611, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or Agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

**18. LIMITED ENGLISH PROFICIENCY (LEP)**

Executive order 13166 enacted August 11, 2000, mandates the federal government reduce language barriers to limited English proficiency (LEP) persons with regard to accessing federal benefits. Recipients of HUD assistance including state and local governments, public housing authority assisted housing providers, profit and non-profit organizations and other entities receiving funds directly or indirectly from HUD are subject to executive order 12166 and title vi provisions as a condition of receiving federal funds. Failure to ensure limited English persons (LEP) access to HUD benefits may violate Title VI Civil Rights protections based upon national origin.

**19. DRUG-FREE WORKPLACE**

As a Contractor of CDBG funds, and in connection with public services offered, the CONTRACTOR agrees that it shall comply with the provisions of the Drug-Free Workplace Act of 1988, 24 CFR Part 21, which requires that CONTRACTOR shall maintain a facility free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

**20. ANTI-LOBBYING**

Section 319 of Public Law 101-121, of the Department of the Interior Appropriations Act, prohibits CONTRACTOR from using appropriated Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan, and requires that no Federal appropriated funds have been paid or will be paid, by or on behalf of CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Contractors who apply or bid for an award of \$100,000 or more shall 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 shall 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 recipient.

**21. AMERICANS WITH DISABILITIES ACT**

CONTRACTOR agrees to comply fully with any and all provisions of the Americans with Disabilities Act (hereinafter referred to as ADA) as applicable to the CONTRACTOR and the activities to be performed by CONTRACTOR under the scope of this Agreement. If employing more than fifteen (15) employees, CONTRACTOR agrees to comply fully with Title I of the ADA as set forth at 28 CFR Part 130. If providing public accommodations as defined by the Act in Section 301(7)(A) -(L), CONTRACTOR agrees to comply fully with Title III of the ADA as set forth at 28 CFR Part 36. If providing public transportation, CONTRACTOR agrees to comply fully with the federal regulations as set forth at 49 CFR Parts 37 and 38.

**22. ACCESS TO RECORDS**

The Contractor shall make available for examination by the City all of its records with respect to all matters covered by this Agreement and shall maintain such records for a period not less than three (3) years after receipt of final payment under the Agreement. In addition, the following access to records requirements apply to the contract:

1. The Contractor agrees to provide the City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative(s) access to any books, documents, papers, and records of the Agreement that are directly pertinent to the Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his/her authorized representative(s) access to information pertaining to the work being completed under the Contract/Agreement.

**23. CONFIDENTIALITY**

All of the reports, information, data, records or documents of any kind, prepared or assembled by the Contractor under the Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

**24. INTEREST OF CONTRACTOR**

The Contractor covenants for himself and on behalf of his employees that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under the Agreement or which is adverse to the interests of the City of Columbia. The Contractor further covenants that in the performance of the Agreement no person having such interest shall be employed.

The Contractor is expected to make its services available to other entities but agrees to refrain from representing other entities in matters where the position of the City conflicts with that of the other entity. The City may at its

discretion waive this provision. The Contractor has provided a list of all of its clients with whom there may be potential conflicts with the City. This list shall be supplemented throughout the duration of the Agreement.

**25. PROGRAM FRAUD AND FALSE OR FRAUDELEND STATEMENTS OR RELATED ACTS**

The contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

**The False Claims Act (FCA), 31 U.S.C. §§ 3729**

Under Liability for Certain Acts, in general any person who:

- a) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- b) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- c) conspires to commit a violation of subparagraph a), b), c), d), e), f), or g);
- d) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- e) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- f) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- g) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 ([28 U.S.C. 2461](#) note; [Public Law 104–410 \[1\]](#)), plus 3 times the amount of damages which the Government sustains because of the act of that person.

**26. CLAIMS AND DISPUTES 2 CFR 200.318(k)**

This contract is subject to Contract Disputes.

- All disputes arising under or relating to this contract shall be resolved under this clause.
- Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under this provision.

All claims must comply with the submission and certification requirements of this provision if it is disputed either as to liability or amount must be acted upon in a reasonable time.

A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 (six) months after accrual of the claim to the Contracting Officer for a written decision.

A claim by the City against the Contractor shall be subject to a written decision by the Contracting Officer.

The Contractor shall provide the certification specified below when submitting any claim.

- a) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- b) The certification shall state as follows: “I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the City is liable; and that I am authorized to certify the claim on behalf of the Contractor.”
- c) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

For Contractor claims, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request.

The Contracting Officer’s decision shall be final unless the Contractor appeals.

If the claim by the Contractor is submitted to the Contracting Officer or a claim by the City is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor’s specific reasons for rejecting the offer.

The City shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, interest shall be paid from the date a proper certification is provided. Simple interest on claims shall be paid at the rate. Which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the State during the pendency of the claim.

The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

## **27. DISPUTES**

This contract is subject to 41 U.S.C. chapters 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the Claims and Disputes Clause. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

## **28. EQUAL EMPLOYMENT OPPORTUNITY**



During the performance of this contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, 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, sexual orientation, or national origin.

Such action shall include, but not be limited to 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 setting forth the provisions of this nondiscrimination clause.

- a) 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 considerations for employment without regard to race, color, religion, sex, sexual orientation, or national origin.
- b) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- c) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- d) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- e) In the event of the Contractor's noncompliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- f) The Contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-contractor or vendor.
- g) The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a sub-

contractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**29. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §7401-7671(q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §1251-1387).

The Contractor will report each violation to the City, Federal Emergency Management Agency (FEMA) and the appropriate Environmental Protection Agency Regional Office (EPA).

The Contractor agrees to include these requirements in each sub-contract exceeding twenty-five thousand dollars (\$25,000.00) financed in whole or in part with federal assistance provided by FEMA.

**30. USE OF RECOVERED MATERIALS**

The Contractor shall comply with Section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (2 C.F.R. §200.322). In performance of the Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired.

**31. OVERSIGHT 2CFR 200.318(b)**

The City will maintain oversight to ensure the Contractor performs in accordance with terms, conditions and specifications per (2 C.F.R. §200.318(b) (General Procurement Standards) and 44 C.F.R. §13.36 (Procurement).

**32. SYSTEM FOR AWARD MANAGEMENT (SAM)**

Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete.

Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to:

Incorporation by reference. The Contractor’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

**33. DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.



**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

(to be submitted with each bid or offer exceeding \$100,000)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

## Federal Labor Standards Provisions

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations

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### 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.

(a) 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.)

(b) 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.)

(c) 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 asset 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 or 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 1(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 1(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/for\\_mslwh347ins\\_tr.htm](http://www.dol.gov/esa/whd/for_mslwh347ins_tr.htm) or its successor site. The prime contractor or is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current addresses 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 dispute's 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 1010, 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.

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**(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.