



**April 12, 2024**

To Whom It May Concern:

The City of Sumter is soliciting **SEALED** bids for the Rehabilitation Projects listed below. Please list the cost of each item separately. All bids ***MUST*** be received by the Purchasing Department on or before 2:00 PM ET on **Wednesday, April 24, 2024** in the City of Sumter Opera House. **SEALED** Bids may be Mailed or Hand Delivered (BIDS WILL BE REJECTED IF RETURNED VIA FAX OR EMAIL).

\*PLEASE SEE ATTACHMENT FOR QUANTITIES, DESCRIPTION, DETAILS AND SPECIFICATIONS.

\*ALL BIDS MUST SPECIFY PER UNIT COST WHEN SHOWN IN SPECIFICATIONS, IF APPLICABLE. DO NOT PROVIDE LUMP SUM ONLY IF YOU CAN PROVIDE UNIT COST.

\*ALL DEVIATIONS FROM REQUESTED SPECIFICATIONS MUST BE CLEARLY NOTED ON BID RESPONSE.

We encourage serious minded contractors to participate. Completing work on time and working to standard are important qualities. Contractors must have a Current Sumter County or City Business License, Workman's Compensation and Current Certificate of Insurance with the City of Sumter listed as Additional Insured. The City must receive and approve the above documents prior to start of any work. The City of Sumter's Insurance Requirements are defined further in the bid packets.

Contractors must obtain a Building Permit from the Building Office prior to starting work. All sub-contractors must adhere to the same standards. Work should be completed in **60 days** or less.

**The bid ITB number and name must appear on the exterior of the envelope.** Please direct questions to Tony Butts at 803-774-5197 or email: [tbutts@sumtersc.gov](mailto:tbutts@sumtersc.gov). The City reserves the right to reject any or all bids and to waive any technicalities in the best interest of the City.

Sincerely,

Anthony J. Butts, Jr., CPPB  
Purchasing Specialist  
E-mail: [tbutts@sumtersc.gov](mailto:tbutts@sumtersc.gov)



**CITY OF SUMTER BID FORM**

City of Sumter, South Carolina, a Body Politic and Corporate and Political Subdivision of the State of SC

**FORMAL INVITATION-TO-BID: ITB #43-23/24**

**NAME OF BID: Sumter Pride - April 2024**

**BID MUST BE RECEIVED BY: Wednesday, April 24, 2024 at 2:00 pm ET at below address**

**OVERNIGHT OR HAND CARRY TO:**

City of Sumter Opera House (City Hall)  
Attention: Purchasing Dept.  
21 N. Main Street  
Sumter, SC 29150

**MAIL TO:**

City of Sumter  
Attention: Purchasing Dept.  
P.O. Box 1449  
Sumter, SC 29151

**BUILDING #1**

**35 Walker Av  
(TM# 228-14-01-031)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #2**

**410 Church St  
(TM# 228-04-01-009)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #3**

**34 Wright St  
(TM# 228-14-06-031)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #4**

**116 N Milton St  
(TM# 229-11-02-020)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #5**

**517 E Charlotte Ave  
(TM# 248-15-02-009)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #6**

**15 Brunhill Cir  
(TM# 229-10-01-030)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #7**

**202 Brand St  
(TM# 250-09-03-032)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #8**

**921 Kingman St  
(TM# 251-01-03-062)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**BUILDING #9**

**212/214 Brand St  
(TM# 250-09-03-037)  
(TM# 250-09-03-038)**

**DEMOLITION BID 1: \$ \_\_\_\_\_**

**\*PLEASE SEE ATTACHMENT FOR QUANTITIES, DESCRIPTION, DETAILS AND SPECIFICATIONS.**

**\*ALL DEVIATIONS FROM REQUESTED SPECIFICATIONS MUST BE NOTED ON YOUR BID RETURN.**

**BIDDER CERTIFICATION:**

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and verify that I am authorized to sign this bid for the offerer. I further state that the company affiliated with this bid currently complies with all applicable federal and state laws and directives relative to non-discriminatory practices in employment.

The Bidder, in compliance with your Invitation-To-Bid, and having examined the Project Documents, and being familiar with all of the conditions surrounding the proposed project, including the availability of materials, labor, and work site environmental conditions, hereby proposes to furnish all permits, labor, materials, supplies, and equipment and to perform the duties in accordance with the contract documents of which this Bid Form is a part. The undersigned, as Bidder, hereby declares that he has read, understands, and accepts these terms which are part of the bid documents. The undersigned, as Bidder, hereby declares that the only person or persons interested in the Bid as principal(s) is, or are, named herein and that no other person has any interest in the Bid or in the contract to be entered into; that this Bid is made without connection with any other person, company or parties making a bid; and that is in all respects fair and in good faith without collusion or fraud. The Bidder further proposes and agrees, if this Bid is accepted, to contract with City of Sumter, to furnish all permits, materials, equipment, tools, apparatus, means of transportation, and labor necessary hereto, and to complete the proposed project in full and complete accordance with the Project Documents, to the full and entire satisfaction of the Owner, at the prices listed in the Bid Schedule. The amounts listed on the Bid of this Bid Form include all permits, labor, materials, tools, equipment, transportation, removal, overhead, profit, insurance, taxes, permits, and other costs both indirect and direct, etc., to complete the Project. The amounts listed on the Bid of this Bid Form also include all costs associated with the compliance of all applicable State laws, local ordinances, and the rules and regulations of all authorities and professional association standards having jurisdiction over the project or the materials used throughout, and they will be deemed to be included in the contract the same as though herein written out in full. In case of error in extension, the Unit Price shall govern rather than the Total Amount. Where Lump Sum Amounts are bid, the amount for each bid item shall govern rather than the total of any several items.

Bids submitted are final and complete offers by the vendor. No additions, corrections, modifications, changes or interpretations will be allowed. In the event questions arise on what is meant by an offer, the Purchasing Manager will make a determination as to the city's interpretation of the vendor's offer. If, after informing the vendor of the city's opinion, disagreement as to scope of the offer is present, the offer will be declared VOID. City of Sumter reserves the right to award proposals received on the basis of individual items, groups of items, or the entire list of items; to reject any and all proposals; and to waive any technicalities. In every case, the City reserves the right to make awards deemed to be in the best interest of the City and to negotiate further the offer determined by the City to be in the best interest of the City. The Owner reserves the right to increase or decrease the amount of work under the Contract at the unit prices quoted in the bid received from the successful responder. City of Sumter also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the City.

S.C. LAW CLAUSE: Upon award of a contract or Purchase Order under this bid, the person, partnership, association, or corporation to whom the award is made must comply with the laws of South Carolina, which require such person or entity to be authorized and/or licensed to do business in this state. Notwithstanding the fact that applicable statutes may exempt or exclude the successful responder from requirements that it be authorized and/or licensed to do business in this state, by submission of this signed proposal, the responder agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, to all matters and disputes arising or to arise under the contract and performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.

**VENDOR NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY-STATE-ZIP:** \_\_\_\_\_

**TELEPHONE NO:** \_\_\_\_\_ **FAX NO:** \_\_\_\_\_

**FEDERAL ID (TAX ID) NO:** \_\_\_\_\_

**AUTHORIZED SIGNATURE (WRITTEN):** \_\_\_\_\_

**AUTHORIZED SIGNATURE (TYPED):** \_\_\_\_\_

**DATE** \_\_\_\_\_

**VENDOR AGREEMENTS – FORMAL INVITATIONS-TO-BID**

**Submittal of Sealed (Formal) Bids** On the date set and at the time designated for the opening of the sealed bid, each prospective bidder is required to submit the bid deposit in the amount and form specified herein. Outside of envelope containing the **sealed** bid must be clearly marked: **Invitation-to Bid #43-23/24 Sumter Pride - April 2024**. Each prospective bidder is required to complete and execute the bid form attached in this Invitation to Bid, and all information and certifications called for thereon must be furnished. Bids submitted in any other manner or which fail to furnish all information or certifications required may be summarily rejected. Bids shall be filled out legibly with all erasures, strikeovers, and corrections initialed by the person signing the bid and the bid must be manually signed. Negligence on the part of the bidder in preparing the bid confers no right for withdrawal or modification of the bid.

City of Sumter reserves the right to obtain clarification or additional information necessary to properly evaluate a bid. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor's bid. City of Sumter reserves the right to accept or reject any and all bids, in whole or in part, separately or together, with or without cause; to waive technicalities in submissions, to secure a project that is deemed to be in the best interest of the City. City of Sumter also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the City.

Each responder, by submitting a bid to the City of Sumter a result of this Invitation-to-Bid, agrees to and acknowledges its acceptance of and agreement with the procedures outlined herein and all terms, conditions and requirements of the applicable City of Sumter Bid documents. If a vendor cannot agree to these terms, or violates these procedures, the response will be judged non-responsive and not considered. If the procedures are violated during the evaluation process or prior to the issuance of a contract by the City of Sumter, the offer of the firm in question will be void and City of Sumter will procure the goods/services in question from other eligible vendors.

At the time of the opening of bids, each responder will be presumed to have read and to be thoroughly familiar with the Documents (including all addenda). The failure or omission of any responder to examine any form, instruction or document shall in no way relieve any responder from any obligation in respect to this Invitation-to-Bid.

Responses submitted are final and complete offers by the vendor. No additions, corrections, modifications, changes or interpretations will be allowed. In the event questions arise on what is meant by an offer, the Purchasing Manager will make a determination as to the city's interpretation of the vendor's offer. If, after informing the vendor of the city's opinion, disagreement as to scope of the offer is present, the offer will be declared VOID. City of Sumter reserves the right to award proposals received on the basis of individual items, groups of items, or the entire list of items; to reject any and all proposals; and to waive any technicalities. In every case, the City reserves the right to make awards deemed to be in the best interest of the City and to negotiate further the offer determined by the City to be in the best interest of the City. Unit prices will govern over extended prices. Prices must be stated per unit and extended for the total quantity. Sales, use, or excise tax, as well as any handling and shipping charges, must be shown as separate items. The Owner reserves the right to increase or decrease the amount of work under the Contract at the unit prices quoted in the bid received from the successful responder.

Responders must clearly mark as "Confidential" each part of their offer which they consider proprietary information that could be exempt from disclosure under Section 30-4-40, Code of Laws of South Carolina, 1976 as amended (Freedom of Information Act). If any part is designated as "confidential", there must be attached to that part an explanation of how this information fits within one or more categories listed in Section 30-4-40. City of Sumter reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against City of Sumter or its agents for its determination in this regard. Should any responder fail to perform or comply with any provision or terms and conditions of any documents referenced and made part hereof, City of Sumter may terminate this contract, in whole or in part, and may consider such failure or non compliance a breach/default of contract.

The City reserves the right to purchase any/all items or service in default on the open market. No additional responses will be considered from a firm in default until the default expenses are paid. No principals of a defaulting firm may submit a response under another organization or individual name until their previous default is settled.

**RIGHT TO INCREASE OR DECREASE THE AMOUNT OF WORK:** The Owner reserves the right to increase or decrease the amount of work under the Contract at the unit prices quoted in the bid received from the successful responder.

**INSURANCE REQUIREMENTS:**

The Responder agrees to secure at Responder's own expense all personnel necessary to carry out Responder's obligations under this Bid. Such personnel shall not be deemed to be employees of the City nor shall they or any of them have or is deemed to have any direct contractual relationship with the City. The City shall not be responsible for withholding taxes with respect to the Responder's compensation hereunder. Responder shall not hold himself out as an employee of the City, and shall have no power or authority to bind or obligate the City in any manner, except the City shall make payment to Responder for services as herein provided. Responder shall obtain and maintain all licenses and permits required by law for performance of this contract by him. The Responder shall have no claim against the City hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind, State or Federal governments' benefits, including but not limited to Social Security, workmen's compensation, Employment Security, sales or use tax and any other taxes and licenses or insurance premiums required by law. The City shall pay no employee benefits or insurance premiums of any kind to or for the benefit of Responder or his employees, agents, and servants by reason of this contract. The Responder will carry liability insurance relative to any service that he performs for the City. A certificate of insurance must be submitted to the purchasing office prior to services performed, with the requested coverage and limits per the City, with City of Sumter listed as additional insured.

**1. Contractor's and Subcontractor's Insurance:** Before commencing the Work, and until completion and final acceptance of the Work, the Contractor shall procure and maintain, at its own expense, the insurance coverages described below. Before starting the Work, Contractor shall furnish a Certificate of Insurance, in a form acceptable to Owner, evidencing the Contractor's compliance with the Agreement's insurance requirements. All insurance policies are to be written through a company duly authorized to transact that class of insurance within the jurisdiction of the Project site and shall be with insurance companies acceptable to Owner and with A.M. Best Rating of A minus or better. The Certificates and policies for the Commercial General Liability and Business Automobile Liability Policy shall name Owner, and if requested, Owner's agents, as Additional Insureds for completed and ongoing operations on a primary and non-contributory basis. All Insurance Certificates shall state policy numbers, dates of expiration, policy limits, and provide that the insurance will not be cancelled or changed unless Owner has been given written notice at least thirty (30) days prior to the date of the proposed change or cancellation.

If the Contractor fails to procure or maintain required insurance coverages, Owner shall have the right, but not the obligation, to procure and maintain the required insurance for and in the name of the Contractor, and Contractor shall pay the cost thereof and furnish all necessary information to make effective and maintain such insurance. Contractor shall not commence work until all insurance requirements are met.

a. **Required Insurance Coverages:** The insurance coverages to be provided include those as set forth below unless modified in an Insurance Exhibit attached to the Agreement:

(1) Commercial General Liability Insurance with limits of \$1,000,000.00 per occurrence/\$1,000,000 aggregate Bodily Injury and Property Damage Liability. This coverage must, at a minimum, include coverage and/or endorsements for premises operations, products/completed operations, contractual liability assumed by Contractor under this Agreement, personal injury, advertising injury and broad form Property Damage (including coverage for explosion, collapse and underground hazards), and independent Contractor coverages. All liability policies must be written on an "occurrence" basis. Such policy shall not contain Endorsement, CG 22 94 10 01. The Commercial General Liability and Automobile Liability insurance required herein shall protect the Contractor and the Owner against liability from damages growing out of any Contractor operations (including the operation of all automobiles, trucks, and other vehicles owned or rented) in connection with the performance of this Agreement, as well as liability arising after the completion of the Contractor's operations.

(2) Motor Vehicle Liability Insurance with bodily injury limits of \$1,000,000.00 and property damage limits of \$1,000,000.00 or a combined single limit of \$1,000,000.00.

(3) Worker's Compensation in accordance with, and providing coverages meeting or exceeding the limits required by, the laws of the State of South Carolina jurisdiction, and Employer's Liability Insurance with the following minimum limits: \$100,000 Per Accident, \$100,000 Per Disease for Each Employee, \$500,000 aggregate.

(4) Excess or Umbrella Liability Insurance with a policy limit of \$1,000,000.00 per occurrence and aggregate.

(5) Sub-Contractor Insurance: If Contractor elects, with Owner's approval, to subcontract any portion of the Work to another Contractor, Contractor shall require of such Subcontractor insurance coverage similar to that required of Contractor hereunder and shall furnish to Owner evidence that such insurance coverages are currently in effect. Moreover, Contractor shall require any such Subcontractor to name Contractor and Owner as additional insured's on Subcontractor's Commercial General Liability Insurance and will provide Contractor with a waiver of subrogation form from such sub-Contractors worker's compensation carrier. Failure of Contractor to require Subcontractor to obtain the coverages required herein or to furnish Owner evidence of such coverage shall be grounds for termination for default.

b. The Contractor shall furnish one copy of each Certificate of Insurance herein required attached to each copy of the Agreement, plus three additional copies of each Certificate of Insurance herein required, which shall specifically set forth evidence of all coverages set forth above. The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending coverage or limits.

**2. Payment and Performance Bonds (CONSTRUCTION BIDS ONLY):** If the Contractor's work as set forth in the Scope of Work exceeds \$50,000.00, Contractor shall provide payment and performance bonds in the full amount of the Contract Sum.

a. The payment and performance bonds, if any, shall name Owner as the obligee. Such bonds must be secured by cash or must be issued by a surety company licensed in the State of South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability".

b. Upon execution of the Contract Documents, the Contractor shall furnish to the Owner a Performance Bond and a separate Labor and Material Payment Bond in a form acceptable to the Owner.

The bonds shall guarantee the Contractor's faithful performance of the Contract and payment of all obligations arising thereunder. The bonds shall remain in force until the Work has been completed and accepted by the Owner, the provisions of all guarantees required by these Contract Documents have been fulfilled, and the warranty periods and period for correction of the Work as provided in the Contract Documents have expired, or the period for filing mechanics' liens has expired, whichever occur latest, after which time the bonds shall lapse. The Contractor shall bear all costs in connection with the bonds as a part of the Contract. One executed copy of each bond shall be attached to each executed copy of the Contract Documents prior to the execution of the Contract Documents by the Owner.

c. The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

All items delivered to or drop shipped to the site remain the sole responsibility of the Bidder . Bidder is solely responsible for maintaining insurance on and replacing said items in the event of theft, damage, or other loss.

Each of the bidders shall fully familiarize itself with the conditions relating to the bid to insure complete understanding of all the details involved. The bidder shall satisfy itself as to the actual requirements of the bid by personal examination of its location or other means, so as to enable the bidder to make an informed bid. Failure to do so shall not relieve the successful bidder of its obligation to furnish all materials, products, and/or labor necessary to complete the provision of the awarded contract and failure to do so may result in the claims against bonds. No allowance will be made for any claims that a bid and/or response was based on incomplete information as to the nature and character of the sites and of the work involved.

The responder shall indemnify, defend and hold harmless City of Sumter, its officers, agents and employees from liability and any claims, suits, judgments, and damages of any nature brought because of, arising out of, or due to breach of the agreement by Responder, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Responder, its subcontractors, suppliers, agents, or employees.

Should any responder fail to perform or comply with any provision or terms and conditions of any documents referenced and made part hereof, City of Sumter may terminate this contract, in whole or in part, and may consider such failure or non compliance a breach/default of contract. The City reserves the right to purchase any/all items or service in default on the open market. By submittal of a response, all responders agree to this provision. No additional responses will be considered from a firm in default. No principals of a defaulting firm may submit a response under another organization or individual name until their previous default is settled.



City of Sumter may terminate this agreement with or without cause at anytime. In the event of termination by either party, uncontested fees due for services satisfactorily performed or goods accepted prior to the termination shall be paid.

## **SCOPE OF WORK**

### **General:**

Demolish and properly dispose of the structure to include the foundation, any accessory buildings, porches, fences, steps, chimneys, pier supports, concrete slabs, driveways and all trash and debris at the following addresses.

<b>35 Walker Ave</b>	<b>(TM# 228-14-01-031)</b>
<b>410 Church St</b>	<b>(TM# 228-04-01-009)</b>
<b>34 Wright St</b>	<b>(TM# 228-14-06-031)</b>
<b>116 N Milton St</b>	<b>(TM# 229-11-02-020)</b>
<b>517 E Charlotte Ave</b>	<b>(TM# 248-15-02-009)</b>
<b>15 Brunhill Cir</b>	<b>(TM# 229-10-01-030)</b>
<b>202 Brand St</b>	<b>(TM# 250-09-03-032)</b>
<b>921 Kingman St</b>	<b>(TM# 251-01-03-062)</b>
<b>212 &amp; 214 Brand St</b>	<b>(TM# 250-09-03-037, 250-09-03-038) (Mobile home at 214 and foundation at 212.)</b>

**\*ALL DEVIATIONS FROM REQUESTED SPECIFICATIONS MUST BE NOTED ON YOUR BID RETURN.** These are “clean” demolitions. All properties have been properly inspected for environmental hazards and all identified hazards have been abated in accordance with SC DHEC. Environmental documents will be provided to the selected contractor.

All buildings to be demolished have been marked with an orange “X”. Only marked structures are to be demolished.

### **Lot Condition:**

Undergrowth, weeds, and scrub/volunteer trees are to be removed from the property to include the sides and rear of the lot. All large, old growth trees are not to be removed or harmed unless specifically approved by the City. Care should be taken to minimally disturb trees specifically when with regard to heavy equipment damaging the root structure.

All debris, trash, rubbish and other waste materials are to be removed from the lot. The lot is to be graded for proper drainage and maintenance (mowing). Should foundation removal leave the lot significantly cratered, the contractor will be required to fill the depressed area(s) with a soil suitable for sustaining the growth of groundcover. The fill must be graded for proper drainage and maintenance.

### **Other Requirements / Instructions:**

Contractor is required to have a valid City of Sumter business license and to maintain liability and worker’s compensation insurance. City of Sumter must be listed as “additional insured”. (Specific detail outlined previously.)

Contractor is responsible for applying for, purchasing and posting all demolition permits.

It shall be the responsibility of the contractor to contact the appropriate utility organizations and ensure all utilities have been properly disconnected from the structure(s).

Contractor is responsible for all landfill disposal fees. Landfill weight tickets and/or recycling tickets are required to be submitted with completion invoice. The city reserves the right to accompany the contractor to the landfill to verify debris is from the contracted buildings.

The contractor is encouraged to recycle any metal, concrete and/or brick materials at an approved facility.

Timeline for the completion of work will be 60 days (Page 1) or may be coordinated with John Macloskie 803-468-0109.

Questions concerning the bid documents, bid process, insurance requirements or other purchasing details should be directed to the Purchasing department

Questions specific to the scope of work or other project details should be directed to John Macloskie

The City reserves the right to refuse any and all bids.

### **35 WalkerAve**





**410 Church St**





**34 Wright St**





116 N Milton St





517 E Charlotte Ave





**15 Brunhill Cir**





**202 Brand St**









**921 Kingman St**



## DEMOLITION SERVICES AGREEMENT

NAME OF CONTRACTOR: (“VENDOR”)  
CORPORATE FORM:  
STATE OF FORMATION:  
DEMOLITION:

DATE OF DEMOLITION: FINAL COMPLETION NO LATER THAN:

This Agreement (this “Agreement”) is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the **CITY OF SUMTER, SOUTH CAROLINA**, a municipal corporation and a political subdivision of the State of South Carolina with its principal administrative office at 21 N. Main Street, Sumter, South Carolina 29150 (the “City”), and the contractor identified above (the “Vendor”).

### RECITALS

**A. Structures to be Demolished.** The City requires demolition and complete removal of structures located at the addresses identified above and their contents (collectively, the “Structures”). An annotated aerial view of the locations of each Structure is attached hereto as Exhibit A.

**B. Capacity of Vendor.** The Vendor is in the demolition business, properly licensed, and has the capability to demolish, raze, remove, and clean up the demolished area in accordance with generally accepted demolition practices and procedures.

**C. Acceptance of Bid.** The Vendor’s bid for demolition services for the Structures has been accepted by the City.

**D. Need for Agreement.** The parties desire to enter into this Agreement upon the terms and conditions that follow.

### AGREEMENT

Now, therefore, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows.

#### **1. Services to Be Provided by Vendor; Duties and Obligations.**

(a) **Demolition and Removal.** For the amount and subject to the conditions set forth in the City of Sumter’s ITB #43-23/24 Sumter Pride - April 2024 and in the Vendor’s bid attached to this Agreement as Exhibit B, the Vendor shall provide all necessary labor, materials, and equipment to demolish the Structures, clean up the affected area where the Structures were located prior to the demolition and the area surrounding the Structures prior to the demolition, and remove all equipment, debris, and rubbish from the demolition area in accordance with generally accepted demolition practices and procedures. Unless otherwise provided to the contrary in the bid attached hereto, the Vendor will obtain all required demolition permits within 10 calendar days after the execution of this Agreement, and will complete demolition of the Structures and clearing of lot within NO LATER THAN (60 days).\_\_\_\_\_.

**(b) Permits.** The Vendor shall be responsible for obtaining all necessary demolition permits and/or approvals from appropriate sources, and the Vendor shall be responsible for the payment of all such permits and/or approvals. Permit costs shall be included in the Demolition bid item. The Vendor shall provide the City with copies of all such permits and/or approvals.

**(c) Prohibited Acts.** While performing demolition and removal work in accordance with this Agreement, the Vendor shall not engage in any action that constitutes a violation of any law, order, ordinance, rule, regulation, or code of any government authority that may cause injury to persons, nor shall the Vendor in any manner deface or injure property that is not subject to demolition, permit any unreasonably objectionable noise or odor to be emitted, permit anything to be done on property where the Structures are located tending to create a health, environmental, or safety hazard or nuisance, or cause any penalty to the City.

**(d) Removal and Disposal of Materials; Compliance with Environmental Laws.**

**(i)** The Vendor shall at all times keep the site of the demolition free from accumulations of debris, waste materials, or rubbish. The Vendor shall be responsible, following the demolition, for removal of all tools, equipment, debris, surplus or waste materials, and rubbish. With respect to all rubbish, garbage, solid waste, C&D waste, and/or hazardous waste, such disposal shall be at licensed facilities. The Vendor will be required to produce dump slips from a licensed land field facility for proof of proper disposal of the contents of the structures, any onsite materials mentioned herein, and the Structures themselves.

**(ii)** The Vendor shall maintain adequate dust control at all times and is responsible for dirt removal and debris from streets and sidewalks at the end of each day.

**(iii)** The Vendor shall comply with all federal, state, and local environmental statutes, ordinances, and regulations (“Environmental Laws”), including emergency planning and community right-to-know laws, and shall, in cooperation with the City when necessary, obtain any necessary permits and comply with all reporting requirements required by such Environmental Laws. The Vendor shall provide the City with copies of all documents submitted to federal, state, and local environmental agencies.

**(iv)** The Vendor shall not treat, store, or dispose of hazardous materials or hazardous substances on the site of the demolition, or allow such materials or substances to be released to the environment; provided, however, that the Vendor may store such materials and substances temporarily in approved tanks or containers, in accordance with all Environmental Laws and with the approval of the City, which approval will not be unreasonably withheld, so long as a permit is not required therefore under the federal Resource Conservation and Recovery Act (RCRA), as amended, or analogous or derivative state or local laws. The Vendor shall remove from the site of the demolition and dispose of all hazardous materials, including all solid wastes, in compliance with applicable Environmental Laws. Any penalty or other liability arising from the Vendor’s failure to comply with Environmental Laws shall be borne by the Vendor and the Vendor shall indemnify the City for any liability and expense imposed upon the City because of any act or water, air, or land pollution resulting from the activities of the Vendor or the Vendor’s employees, subcontractors, or agents.

**(e) Preservation of Utilities.** The Vendor is responsible for contacting all applicable utility companies in order to arrange for proper disconnections from the proposed demolition site. Utility contacts may include gas, electric, cable, telephone, public water supply, or sanitary sewer as well as septic tank abandonment or water well closure. The Vendor is further required to coordinate with the City on delivery of water to the site of the work and may not access City sources of water without the prior written approval of the City, which approval shall establish the times, manner, terms, and conditions upon which the Vendor may access City sources of water.

(f) **Inspections.** The City may expect the site of the demolition at any time and without prior notice. If, during an inspection, the City becomes reasonably concerned about the safety and/or efficacy of the demolition, removal, and remediation of the Structures and their contents, then the City may (but shall be under no obligation to, and shall have no liability to any party for failure to) direct the work or arrange for a qualified third party to inspect the site and provide recommend improvements to safety and efficacy processes.

(g) **Safety Measures.** The Vendor shall furnish and erect, at no additional cost to the City, whatever sidewalks, bridges, culverts, or other works as may be necessary for the protection of the public, including, but not limited to, barricades, fences, etc. and for the safe and proper execution of other public utility lines so as not to interfere therewith or damage or cause damage thereto. The Vendor shall be responsible for all damages to persons or property that occur as a result of his fault, omission, or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all work performed hereunder until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the City.

## **2. Relationship of the Parties; Representations and Warranties.**

(a) **Independent Contractor.** The City retains the Vendor on an independent contractor basis. The Vendor is not an agent or employee of the City for any purpose, and neither the Vendor nor its employees are entitled to any of the benefits that the City provides for its employees. Any person performing work under this Agreement on behalf of the Vendor shall at all times be under Vendor's exclusive direction and control. Vendor shall pay all wages, salaries, and other amounts due to such personnel in connection with their performance as an employee of Vendor as required by law. The Vendor shall be responsible for all reports and obligations respecting such persons, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation. The Vendor's performance of services and hours worked shall be entirely within the Vendor's control, and the City shall rely upon the Vendor to devote the time reasonably necessary to perform in accordance with this Agreement.

(b) **Workers' and Unemployment Compensation.** The City shall not be responsible for covering Vendor under any workers' compensation insurance or unemployment compensation insurance plans.

(c) **No Agency Authority.** The Vendor and its employees and agents shall have no authority or right to obligate the City in any way. The Vendor shall identify itself as an independent contractor and shall not hold itself out as an employee or agent of the City.

(d) **Non-Exclusivity.** The parties agree that this is not an exclusive contract and that the parties are free to enter into agreements and contracts for similar or other services with other parties during the term of this Agreement.

(e) **Delegation; Subcontracting.** The Vendor shall neither delegate nor subcontract any performance of the work under this Agreement to any person who is not an employee of the Vendor or to a subcontractor without the prior written consent of the City. If the City consents in writing to the delegation of or subcontract for the performance of all or a portion of the demolition work under this Agreement, any delegation of or subcontract for the performance of work under this Agreement shall be subject to the following conditions:

(i) The Vendor shall remain primarily liable to the City for the performance it delegated or otherwise subcontracted to a subcontractor or other person.

(ii) The Vendor shall remain liable to the City for the acts or omissions of any person or subcontractor and the subcontractor's officers, agents, or employees performing delegated work.

(iii) The Vendor shall deliver a copy of the duly executed subcontract to the City within 5 business days after executing the subcontract.

(iv) The Vendor and subcontractor shall agree in the subcontract that the City has no duty to perform any performance owed by the Vendor to subcontractor or any person under the subcontract including, but not limited to, payment under the subcontract.

Any delegation of performance of the Work under this Agreement, in whole or in part, without the prior written consent of the City or without agreement to or satisfaction of the conditions set forth in this paragraph is void and may, in the sole discretion of the City, result in the termination of this Agreement.

**(f) Representations and Warranties of the Vendor.** The Vendor hereby represents and warrants as follows:

(i) The Vendor represents and warrants that all of its agents, subcontractors, and employees are fully licensed, certified, or otherwise authorized to demolish structures, haul away and test debris (if necessary), and dispose of demolition materials to legally pre-approved sites, and to the extent this Agreement.

(ii) It is understood by the Vendor that the timing requirements of this Agreement must be strictly observed. In the event that the Vendor is unable to complete the demolition and removal in accordance with such requirements, the Vendor shall be required to pay the sum of \$25.00 per day as and for liquidated damages; which damages, although incapable of precise determination, shall be imposed to account for any delay costs that may be imposed or asserted by any other contractors or subcontractors or any other person arising out of such delay.

(iii) The price herein shall remain fixed. No other charges, extras, or additions shall be made or added to this Agreement unless first agreed to in writing by the City. Any work performed or extras outside the scope of the work herein described without the City's prior written approval shall be at the Vendor's sole cost and expense.

(iv) Should any dispute or change in the scope of work be required during the demolition and removal, the inability to resolve such dispute shall not be a basis for stopping work. The Vendor shall continue to perform all work hereunder, to dispose of all contaminants in the Structures, and to do all things necessary in order to make the Structures suitable for demolition as prescribed by law and this Agreement.

(v) In the event that the City identifies unsatisfactory, defective, incomplete, or unworkmanlike work in the scope of the Vendor's services hereunder, the Vendor will, upon notice from the City immediately stop said work and immediately commence to comply with any such notice, and shall immediately correct any such problem at the Vendor's expense.

(vi) The Vendor represents and warrants that it possesses the necessary skill, knowledge, training, and capacity to demolish structures in Sumter County and that it will perform its work timely and in a workmanlike manner. The Vendor further represents and warrants that all documents and statements provided to the City as evidence of its skill, knowledge, training, and capacity are true, correct, and complete in all material respects.

(vii) The Vendor represents and warrants that it has fully inspected the Structures, and that the scope of work as prescribed herein is based upon said actual on-site inspection by the Vendor. The Vendor also acknowledges that the work hereunder is being done for the purpose of demolishing the Structures, for the development or reutilization of the site, and that the Vendor's work will be done in a professional and workmanlike manner.

(viii) The Vendor agrees that all work will be done in conformity with all applicable laws of the City, Sumter County, the State of South Carolina, and the United States of America; that all demolition permits of any government-issuing authority will be secured; that property will at all times be maintained in a safe condition consistent with all applicable public safety laws; and that if required by this Agreement.



### **3. Indemnification.**

(a) As used herein, “Vendor” includes all subcontractors and other parties under any oral or written agreement, purchase order, or other instrument between Vendor and any subcontractor for or on behalf of the City.

(b) Vendor shall indemnify, keep, and save harmless the City, its elected officials, officers, employees, staff, and agents against all injuries, death, loss, damage, claims, suits, liabilities, judgments, costs, and expenses (“Claims”) that may arise hereunder or otherwise result from or in connection with Vendor’s demolition and removal activity under this Agreement, and the Vendor shall, at his own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the City in any such action, the Vendor shall at his own expense, satisfy and discharge the same. Vendor expressly understands and agrees that any performance bond or insurance protection required by this Agreement, or otherwise provided by Vendor, shall in no way limit the responsibility to indemnify, keep, and save harmless and defend the City as herein provided.

(c) Vendor’s indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Laws.

**4. Governmental Immunity.** The City does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with respect to any action based upon or occurring as a result of this Agreement.

### **5. Licensing and Insurance.**

(a) **Certificate of Insurance:** Before starting demolition of the Structures, the Vendor shall furnish one or more Certificates of Insurance, in a form acceptable to the City, evidencing the Vendor’s compliance with this Agreement’s insurance requirements. All insurance policies are to be written through a company duly authorized to transact that class of insurance within the jurisdiction of the City and shall be with insurance companies acceptable to the City and with A.M. Best Rating of A minus or better. The Certificates of Insurance and policies for the commercial general liability and business automobile liability policy shall name the City, and if requested, the City’s agents, as additional insureds for completed and ongoing operations on a primary and non-contributory basis. All Certificates of Insurance shall state policy numbers, dates of expiration, policy limits, and provide that the insurance will not be cancelled or changed unless the City has been given written notice at least thirty (30) days prior to the date of the proposed change or cancellation. If the Vendor fails to procure or maintain required insurance coverages, the City shall have the right, but not the obligation, to procure and maintain the required insurance for and in the name of the Vendor, and the Vendor shall pay the cost thereof and furnish all necessary information to make effective and maintain such insurance. The Vendor shall not commence demolition until all insurance requirements are met.

(b) **Coverages.** The insurance coverages to be provided include those as set forth below:

(i) Commercial general liability insurance with limits of \$1,000,000 per occurrence/\$1,000,000 aggregate bodily injury and property damage liability. This coverage must, at a minimum, include coverage and/or endorsements for premises operations, products/completed operations, contractual liability assumed by the Vendor under this Agreement, personal injury, advertising injury and broad-form property damage (including coverage for explosion, collapse, and underground hazards), and independent contractor coverages. All liability policies must be written on an “occurrence” basis. Such policy shall not contain Endorsement, CG 22 94 10 01.

The commercial general liability and automobile liability insurance required herein shall protect the Vendor and the City against liability from damages growing out of any Vendor operations (including the operation of all automobiles, trucks, and other vehicles owned or rented) in connection with the performance of this Agreement, as well as liability arising after the completion of the Vendor's operations.

(ii) Motor vehicle liability insurance with bodily injury limits of \$1,000,000 and property damage limits of \$1,000,000 or a combined single limit of \$1,000,000.

(iii) Worker's compensation in accordance with, and providing coverages meeting or exceeding the limits required by, the laws of the State of South Carolina, and employer's liability insurance with the following minimum limits: \$100,000 per accident, \$100,000 per disease for each employee, and \$500,000 aggregate, if applicable.

(iv) Excess or umbrella liability insurance with a policy limit of \$1,000,000 per occurrence and aggregate.

(c) **Sub-Contractor Insurance.** If the Vendor elects, with the City's prior written approval, to subcontract any portion of the demolition or removal work to one or more subcontractors, the Vendor must require of each such subcontractor insurance coverage similar to that required of the Vendor hereunder and shall furnish to the City evidence that such insurance coverages are currently in effect. Moreover, the Vendor shall require each such subcontractor to name the Vendor and the City as additional insureds on such subcontractor's commercial general liability insurance and will provide the Vendor with a waiver of subrogation form from such Subcontractors workers' compensation carrier. Failure of the Vendor to require any subcontractor to obtain the coverages required herein or to furnish the City evidence of such coverage shall be grounds for termination for default.

(d) **Documentation.** The Vendor shall furnish one copy of each Certificate of Insurance herein required attached to each copy of this Agreement, plus three additional copies of each Certificate of Insurance herein required, which shall specifically set forth evidence of all coverages set forth above. The Vendor shall furnish to the City copies of any endorsements that are subsequently issued amending coverage or limits.

(e) **Payment and Performance Bonds.** If the required payment hereunder exceeds \$50,000, the Vendor shall provide payment and performance bonds in the full amount of this Agreement.

(i) The payment and performance bonds, if any, shall name the City as the obligee. Such bonds must be secured by cash or must be issued by a surety company licensed in the State of South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability".

(ii) Upon execution of this Agreement, the Vendor shall furnish to the City a performance bond and a separate labor and material payment bond in a form acceptable to the City. The bonds shall guarantee the Vendor's faithful performance of this Agreement and payment of all obligations arising hereunder. The bonds shall remain in force until the demolition and removal has been completed and accepted by the City, the provisions of all guarantees required by this Agreement have been fulfilled, and the warranty periods and period for correction of the work required by this Agreement have expired, or the period for filing mechanics' liens has expired, whichever occur latest, after which time the bonds shall lapse. The Vendor shall bear all costs in connection with the bonds as a part of this Agreement. One executed copy of each bond shall be attached to each executed copy of this Agreement.

(iii) The Vendor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.



**6. Compliance with Civil Rights Laws.** The Vendor certifies that it has adopted an equal employment opportunity policy and it is in full compliance with applicable federal, state, and local laws, rules, and regulations in the area of non-discrimination in employment. The Vendor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, national origin, age, or sex. Breach of this Section by Vendor within the State of South Carolina shall constitute a material breach of this Agreement, and the City shall be entitled to terminate this Agreement.

**7. Non-Collusion.** The undersigned affirms that the Vendor has not prepared the winning bid resulting in this Agreement in collusion with any other bidder, and that the prices, terms, or conditions of said bid have not been communicated by the Vendor nor by any employee or agent of Vendor to any other person engaged in this type of business prior to the official opening of said bid.

**8. Notice.** All notices, demands, or other writings permitted or required by the terms of this Agreement shall be deemed to have been fully given, made, or sent when made in writing and deposited in the United States Mail, postage prepaid, and addressed to a party at the address set forth above or such other address provided to the other party in writing.

**9. Entire Agreement.** This Agreement, together with the attachment to this Agreement, shall constitute the entire agreement between the parties. Any prior understanding, representation, or negotiation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

**10. Modification.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or its authorized representative.

**11. Partial Invalidity.** If any provision of this Agreement, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and application of such provisions to other persons or circumstances shall be interpreted so as best to reasonably effect the intent of the parties hereto. The parties further agree to replace any such invalid or unenforceable provisions of this Agreement with valid and enforceable provisions that will achieve, to the extent possible, the economic, business, and other purposes of the invalid or unenforceable provisions.

**12. Absence of Waiver.** The failure of either party to insist on the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of such terms and conditions, shall not be construed as thereafter waiving such terms and conditions, which shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

**13. Assignment.** The rights and obligations of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior written consent of the other party. In the event of a proper assignment, this Agreement shall be binding upon and inure to the benefit of the parties' successors and assigns.

**14. No Third Party Benefit.** The provisions of this Agreement are for the benefit of the parties hereto, and not for the benefit of any other person or legal entity.

**15. Consent to Personal Jurisdiction/Governing Law.**

**(a) Consent to Jurisdiction.** Vendor acknowledges that this Agreement shall be deemed to have been executed in Sumter County in the State of South Carolina and hereby consents to the exercise of general personal jurisdiction over it by the appropriate courts in Sumter County in the State of South Carolina.

**(b) Venue for Actions.** Any action on a controversy that arises under this Agreement shall be brought in Sumter County in the State of South Carolina, which Vendor agrees is a reasonably convenient place for trial of the action. Vendor agrees that its consent in accordance with this Section is not obtained by misrepresentation, duress, the abuse of economic power, or other unconscionable means.

**(c) Governing Law.** This Agreement shall be governed in all respects by the laws of the State of South Carolina, without respect to conflicts of law.

**16. Interpretation.** In the interpretation of this Agreement, it shall be construed as if it were drawn jointly or by both the Vendor and the City and no inference or presumption shall be made or drawn either for or against the Vendor or the City by virtue of who might have prepared this Agreement.

**IN WITNESS WHEREOF,** the Vendor and the City have executed this Agreement under seal as of the day and year first written above.

**VENDOR:  
CORPORATE NAME OF VENDOR**

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

**Notice Address of Vendor:**

**Name and Address of Vendor's Registered Agent:**

**CITY:  
CITY OF SUMTER, SOUTH CAROLINA**

\_\_\_\_\_  
Name: Deron L. McCormick  
Title: City Manager

**Notice Address of City:**

21 N. Main Street, 4th Floor  
Sumter, South Carolina 29150

**EXHIBIT A**

**ATTACH ANNOTATED STREET VIEW AND AERIAL VIEW OF DEMOLITION SITES**

**EXHIBIT B**  
**ATTACHMENTS**

1. BID SUBMITTAL
2. CERTIFICATE OF INSURANCE
3. FEDERAL FUNDING CONTRACT/AGREEMENT

NOTE: PAYMENT & PERFORMANCE BOND FORMS WILL BE SUPPLIED TO AWARDED CONTRACTOR, IF APPLICABLE.

**FEDERAL FUNDING CONTRACT/AGREEMENT**  
**FEDERAL AGENCY’S GRANT PROGRAM**  
**REQUIREMENTS FOR PROCUREMENT CONTRACTS**

**Contractual Certifications and Assurances**

2 CFR Part 200 UNIFORM ADMINISTRATIVE REQUIREMENTS,  
COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

**WHEREAS**, this Contract/Agreement between **[CONTRACTOR]** (“Contractor”), and City of Sumter, (the “City”) for ITB #19 – 17/18 Sumter Pride Demolition Projects November 2017.

**WHEREAS**, the City issued ITB #**43-23/24 Sumter Pride - April 2024** which is hereby incorporated into this Contract/Agreement in its entirety by reference;

**NOTWITHSTANDING**, the date of execution of this Contract/Agreement by the parties hereto, the parties intend that this Contract/Agreement shall be effective as of Date of Original Purchase Order;

**WHEREAS**, the parties acknowledge that the above-referenced Contract/Agreement is subject to the provisions of 2 C.F.R. § 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207 et seq.);

**WHEREAS**, this Contract/Agreement is hereby expressly incorporated into the Contract/Agreement between the City of Sumter and the Contractor. The Contractor agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by HUD. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions. To the extent that the terms of the ITB #**43-23/24 Sumter Pride, April 2024** and if this Contract/Agreement conflict, the terms of this Contract/Agreement shall control;

The following provisions are hereby added and incorporated into the above-referenced Contract/Agreement:

**I. TERMINATION FOR CONVENIENCE OF THE CITY** (*applicable to all contracts in excess of \$10,000*)

A. City shall have the option, in its sole discretion, to terminate this Contract/Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

B. Upon receipt of the notice, Contractor shall commence and perform, with diligence, all actions necessary on the part of Contractor to effect the termination of this Contract/Agreement on the date specified by City and to minimize the liability of Contractor and City to third parties as a result of termination. All such actions shall be subject to the prior approval of the City. Such actions shall include, without limitation:

1. Halting the performance of all services and other work under this Contract/Agreement on the date(s) and in the manner specified by City.
2. Not placing any further orders or subcontracts for materials, services, equipment or other items.
3. Terminating all existing orders and subcontracts.

4. At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

5. Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

6. Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

7. Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Contract/Agreement which is in the possession of Contractor and in which City has or may acquire an interest

C. Within 30 days after the specified termination date, Contractor shall submit to City an invoice, which shall set forth each of the following as a separate line item:

1. The reasonable cost to Contractor, without profit, for all services and other work City directed Contractor to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for services or other work. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice. Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Contract/Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

2. A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Contract/Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

3. The reasonable cost to Contractor of handling material or equipment returned to vendor, delivered to the City or otherwise disposed of as directed by the City.

D. In no event shall City be liable for costs incurred by Contractor or any of its subcontractors after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection C. Such non-recoverable costs include, but are not limited to, anticipated profits on this Contract/Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs related to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection C.

E. In arriving at the amount due to Contractor under this Section, City may deduct:

1. All payments previously made by City for work or other services covered by Contractor's final invoice;

2. Any claim which City may have against Contractor in connection with this Contract/Agreement;

3. Any invoiced costs or expenses excluded pursuant to the immediately preceding subsection D; and

4. In instances in which, in the opinion of the City, the cost of any service or other work performed under this Contract/Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Contract/Agreement.

F. City's payment obligation under this Section shall survive termination of this Contract/Agreement.

**II. TERMINATION FOR DEFAULT – REMEDIES FOR BREACH** *(applicable to contracts in excess of the simplified purchase threshold (\$150,000.00) shall contain provisions allowing for administrative, contractual, or legal remedies for contractor breaches of the contract terms, and shall provide for such remedial actions as appropriate)*

Contractor's failure to perform or observe any term, covenant or condition of this document (Federal Emergency Management Agency's Emergency Management Performance Grant Program Requirements for Procurement Contracts) shall constitute an event of default under this Contract/Agreement.

A. Each of the following shall also constitute an event of default ("Event of Default") under this Contract/Agreement:

1. Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Contract/Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

2. Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

3. A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

B. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Contract/Agreement or to seek specific performance of all or any part of this Contract/Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Contract/Agreement or any other Contract/Agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Contract/Agreement or any other agreement.

C. All remedies provided for in this Contract/Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy

### **III. SOCIO-ECONOMIC ENGAGEMENT**

Contractor will take the following affirmative steps to engage small and minority firms, women's business enterprises, and labor surplus area firms.

- A. Place qualified small and minority business and women's business enterprises on sub-contractor solicitation lists.
- B. Assure that such firms are solicited whenever they are potential sources.
- C. Divide total requirements into smaller tasks or quantities to permit maximum participation by such firms.
- D. Establish delivery schedules which encourage participation by such firms.

### **IV. ACCESS TO RECORDS**

- A. Contractor agrees to provide the City, HUD, the Comptroller General of the United States or any their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this *Contract/Agreement* for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. Contractor agrees to maintain all books, records, accounts and reports required under this *Contract/Agreement* for a period of not less than three years after the later of: (a) the date of termination or expiration of this *Contract/Agreement* or (b) the date City makes final payment under this *Contract/Agreement*, except in the event of litigation or settlement of claims arising from the performance of this *Contract/Agreement*, in which case, Contractor agrees to maintain same until the City, HUD, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

### **V. EQUAL EMPLOYEMENT OPPORTUNITY** (*applicable to all construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub-grantees*)

Contractor agrees to comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11236 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

### **VI. COPELAND "ANTI-KICKBACK" ACT** (*applicable to all contracts and subgrants for construction or repair*)

Contractor agrees to comply with the Copeland "Anti-Kickback" regulations under Section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).



A. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the HUD may by appropriate instructions require, 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 of these contract clauses.

B. Breach. A breach of the Contract/Agreement clauses above may be grounds for termination of the Contract/Agreement, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**VII. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT** (*applicable to all construction contracts awarded by grantees and sub-grantees in excess of \$2,000, and all other contracts involving the employment of mechanics or laborers in excess of \$2,500*)

Contractor agrees that it shall comply with Sections 103 and 107 of the Contract/Agreement Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5), which requires each contractor to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours. Section 107 is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.

**VIII. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT** (*applicable to all contracts and subcontracts in excess \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year*)

- A. Contractor agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- B. Contractor acknowledges that the Clean Air Act (CAA) is the comprehensive federal law regulating air emissions from stationary and mobile sources. Among other things, this law authorizes EPA to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.
- C. Contractor acknowledges that the Federal Water Pollution Control Act, popularly known as the Clean Water Act, is a comprehensive law aimed at restoring and maintaining the chemical, physical and biological integrity of the nation's waters. The Act authorizes water quality programs, requires federal effluent limitations and state water quality standards, requires permits for the discharge of pollutants into navigable waters, provides enforcement mechanisms, and authorizes funding for wastewater treatment construction grants and state revolving loan programs, as well as funding to states and tribes for their water quality programs.
- D. Contractor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to HUD and the appropriate EPA regional office.
- E. Contractor agrees to include paragraph a) and d) above in each third party subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUD.

**IX. BYRD ANTI-LOBBYING AMENDMENT**

Contractor acknowledges and agrees that Sub-recipients applying or bidding for an award of \$100,000 or more shall certify that they have 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 any employee of a member of Congress in connections with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. §1352.

**X. DEBARMENT AND SUSPENSION**

Contractor certifies that neither it nor its Principals (as defined at 49 C.F.R. §29.105) or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract/Agreement by any Federal department or agency. Except as modified herein, all terms and conditions of the existing Contract/Agreement between the parties remain in full force and effect.

Accepted by **[CONTRACTOR'S COMPANY NAME]** on \_\_\_\_\_ **(DATE)** \_\_\_\_\_

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

Signature: \_\_\_\_\_

Accepted by the **CITY OF SUMTER** on \_\_\_\_\_ **(DATE)** \_\_\_\_\_

By: Mr. Deron L. McCormick Title: City Manager

Signature: \_\_\_\_\_