



CHARLESTON COUNTY PARK  
AND RECREATION COMMISSION

Request for Proposal -  
McLeod Stabilization Construction

2012-002-OPS

SEPTEMBER 7, 2011



McLeod Stabilization Construction

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The Charleston County Park and Recreation Commission (CCPRC) is seeking proposals for MCLEOD STABILIZATION CONSTRUCTION. Work is for construction work to stabilize, and preserve the historic and architectural integrity of a total of thirteen structures on McLeod Plantation, located on James Island in the City of Charleston, SC, 325 Country Club Road.

For additional information on the Request for Proposal, please contact Deborah P. Taylor, Procurement Coordinator, (843) 762-8094, Charleston County Park and Recreation Commission, 861 Riverland Drive, Charleston, SC 29412. Proposals must be submitted in accordance with the terms of the Request for Proposal and are to be received no later than October 4, 2011, 2:00 PM ET.

By: \_\_\_\_\_  
Tom O'Rourke, Executive Director  
Charleston County Park and  
Recreation Commission



Request for Proposal -  
McLeod Stabilization Construction

**FOR THE**  
**CHARLESTON COUNTY PARK AND**  
**RECREATION COMMISSION (CCPRC)**

2012-002-OPS

SEPTEMBER 7, 2011

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**PRICE PROPOSAL**

**Firm Fixed Price Contract**

**Item 1 – Total Price - nine buildings** \$ \_\_\_\_\_

All allowances, fees, subcontractors' fees and costs are included in this Total Proposal.

Total cost based on nine initial buildings

**(PRC Use Only - breakdown is to be provided below but will not be evaluated)**

- |                                  |          |
|----------------------------------|----------|
| a) Building 1 - Main House       | \$ _____ |
| b) Building 2 - Slave Cabin 1    | \$ _____ |
| c) Building 3 - Slave Cabin 2    | \$ _____ |
| d) Building 4 - Slave Cabin 3    | \$ _____ |
| e) Building 5 - Slave Cabin 4    | \$ _____ |
| f) Building 6 - Slave Cabin 5    | \$ _____ |
| g) Building 7 - Overseer's House | \$ _____ |
| h) Building 8 - Kitchen House    | \$ _____ |
| i) Building 9 – Dairy            | \$ _____ |

**Allowance**

**Item 2 – Not to Exceed (NTE) – Total Labor and Material**  
**- four additional buildings \$84,800.00**

Total labor and material cost based on four buildings

**UNIT PRICES:**

Labor Only - four buildings *Barn, Garage, Privy & Gin*

**Item 2AA** Unit Price  
\$ \_\_\_\_\_/man-hour

**Item 2 AB\*Material Handling Fee** \_\_\_\_\_%

**\*Material Handling Fee or any other fee if any to be charged to material.**

**Options/ALTERNATES:**

**ADD ALTERNATES:**

See Full Description of Items in Section 1.1, G, H and I

Item 3	Shutters	\$ _____
Item 4	Terne Roof	\$ _____
Item 5	Window Sash	\$ _____
Item 6	Structural Sills	\$ _____

**DEDUCT ALTERNATE:**

Item 7	Asphalt Roof	- \$ _____
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**UNIT PRICES**

EST

QTY

Item 8	600 LF Chain Link Fencing	\$ _____/LF
Item 9	1 EA Chain Link Gate	\$ _____ Each

**OFFER NOTES:**

1. Evaluation will be made on the total sum of Items 0001 and Items 3 thru 7. Cost realism analysis will be performed.
2. CCPRC will evaluate offers for award purposes for Item 1 and Items 3 thru 7.
3. CCPRC may reject an offer as nonresponsive if it is materially unbalanced as to prices for the basic requirement. An offer is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

**I. Introduction**

The Charleston County Park and Recreation Commission (CCPRC) is seeking proposals for MCLEOD STABILIZATION CONSTRUCTION. Work is for construction work to stabilize, and preserve the historic and architectural integrity of a total of thirteen structures on McLeod Plantation, located on James Island in the City of Charleston, SC, 325 Country Club Road. It is the intent of the Owner to preserve the historic and architectural integrity of the buildings.

CCPRC represents one of the most unique park and recreation agencies in the State of South Carolina. As a Special Purpose Public Service District created in 1968, CCPRC has specific areas of responsibilities that have been defined through its legislative empowering act. CCPRC is responsible for providing park and recreational services, and, as appropriate, works in cooperation with other recreational and governmental agencies to provide these services.

One of CCPRC's ongoing goals is the development of a diversified county park system emphasizing the provision of passive activities, public beach and boating access and environmental stewardship. Each park facility also offers a variety of programming opportunities, facilities and events, of which many are directed toward highlighting the natural features and characteristics of each site. These goals and accomplishments have resulted in providing CCPRC with annual park visitation in excess of 1,400,000. To learn more about the CCPRC park system, please visit our website at [www.ccprc.com](http://www.ccprc.com) .

## II. Scope of Work

### A. Project Overview:

Work is for construction work to stabilize, and preserve the historic and architectural integrity of a total of thirteen structures on McLeod Plantation, located on James Island in the City of Charleston, SC, 325 Country Club Road.

The Scope of Work required under this Request for Proposal includes all labor, materials, equipment, utilities, reimbursables, and services required for the rehabilitation of these structures including permitting, compliance with all state and local codes, cost estimating, testing standards and construction of the project.

Whenever possible, historic materials shall be repaired and retained. Whenever replacement is necessary, the new material shall match the original exactly (and approval of replacement instead of repair is to be approved by Owner and Owner's representative, prior to proceeding with replacement materials). All work must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation. A copy of the Standards for Rehabilitation is available in the project architect's office and website at the following web address <http://www.nps.gov/hps/tps/tax/rhb/index.htm> . The contractor should note, that all measurements provided are approximate and, it is up to the selected firm to confirm and/or verify, as needed. The McLeod Plantation Stabilization specifications are provided as Attachment A and drawings are Attachment B.

It is the intention of this work to stabilize the exteriors of all structures on the site as indicated in the plans. Of those buildings, nine buildings (Item 1 on the price proposal form) will be a Firm Fixed Price contract. The other four structures (Item 2 on the price proposal form) are in more serious condition. Those structures will be evaluated by the Owner's Structural Engineer (a subcontractor of the Owner's Planning Firm), with assistance from the successful general contractor, to determine the scope of work. Contractor shall provide a material handling fee or any other fee if any to be included in the not to exceed amount when providing materials (Item 2AB). This will be a Not to Exceed price for Item 2. Item 3 through 9 are options/alternates. Evaluation of options will not obligate CCPRC to exercise the option(s).

Pre-Proposal Meeting: A Mandatory Pre-Proposal meeting will be held, on site (McLeod Plantation, 325 Country Club Road, Charleston, SC) Tuesday, September 20, 2011 at 9:00 AM ET. This meeting is mandatory; therefore, no proposal will be accepted for failure to attend.

The work includes construction and the following items:

**Survey Work:** Contractor shall locate all visible and underground utilities within the project property and the adjoining road right of ways before work begins. The contractor shall provide a final, as-built survey of all existing utilities prepared in digital format using the existing owner provided digital survey (Existing survey provided with plans).

**Special Permitting Requirements-** Obtain all necessary permits and meet local codes (Note: City of Charleston Board of Architectural Review (BAR) and Historic Charleston Foundation requirements have been met and are reflected in the plans and specifications). Contractor is to abide strictly by those requirements.

Under qualifications see Evaluation Criteria under Factor 1, (1), 1.1, 1.2 and 1.3. Among which includes the following: Only contractors with a minimum of five years relevant experience with historic structures similar to the project will be considered for this work on McLeod Plantation. Historic Projects: List four projects involving the restoration of one or more historic structures and illustrate how this work followed the Secretary of Interior's Standards for Rehabilitation and the percentage of that work were attributed to your firm.

#### Codes & Standards

All work shall be done in accordance with all applicable codes and standards which include, but are not limited to, the following the Secretary of the Interior's Standards for Rehabilitation, International Building Code, Local Codes, Manufacturers Recommendations, and Historic Charleston Foundation Technical Information (<http://www.historiccharleston.org/preservation/tech.html>) including but not limited to, Wood Siding; Paint and Paint Removal; Bricks and Mortar; Stucco' Doors, Windows, and Shutters; and Roofs and Chimneys.

Comply with the Lead Based Paint and Asbestos Study recommendations, see Section XII. The firm must provide proof of certification with the Environmental Protection Agency (EPA) for lead-safe work practices.

Provide all applicable contractor licenses: include license name, license numbers and contact information.

Project to be complete within 120 days of the Contract Notice to Proceed.

Contractor to attend weekly construction progress meetings.

Submittals are required to be on CD. Documents can be submitted as PDF files.

Time is of the essence to stabilize these buildings as they have been deteriorating for some time.

The Guiding Principles for preservation and development and use of the McLeod Plantation are listed below.

#### **Guiding Principles**

- Operate this iconic site as a public historic park with meaningful public access
- Provide relevant protections of any significant resources at McLeod Plantation
- Maintain a balance between public access and resource preservation
- Protect the site in perpetuity, while allowing for sensitive additions to facilitate public use and enjoyment
- Additions to the site must be executed in a manner that are sensitive to the overall significance of the site
- Provide education and interpretation of the unique tangible and intangible resources at McLeod Plantation
- Promote a broad and diverse understanding of McLeod Plantation's regional, state and national significance
- Provide opportunities for the public to gain a greater understanding of regional, state and national history through creative partnerships

- Conduct and document a public engagement process that seeks input from the citizenry and other stakeholders
- Follow the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation in all effort undertaken at McLeod Plantation
- Establish a thorough process for record keeping so that all actions at McLeod Plantation are well documented and can be referenced as an important tool in future decision-making
- Develop an environmentally, economically, and culturally sustainable approach to provide a functional site and facilities that can be maintained within the county parks system.

B. Project Site:

Located: 325 Country Club Road, Charleston, SC

Project site is on James Island, within the city limits of Charleston, SC.

Coordinates:

Lat: 32.764334

Long: .972902

General Site Characteristics:

Approximately 37 acres

C. Project Cost:

The Project Cost under this Request for Proposal includes all labor, materials, reimbursibles, equipment, utilities and services required for the rehabilitation of these structures including permitting, comply with all state and local codes, cost estimating, testing standards and construction of the project.

D. Construction Considerations

Construction Implementation

The Scope of Work required under this Request for Proposal includes all labor, materials, equipment, utilities and services required for the rehabilitation of these structures including permitting, comply with all state and local codes, cost estimating, testing standards and construction of the project.

Project Management/Construction Administration

- Identify a construction superintendent to provide construction coordination, responsible for communicating with owner, contractors and directives to sub-contractors.
- Identify individual responsible for overall project construction quality control
- Provide inspection/field condition reports
- Schedule construction meetings and provide input to reports and meeting minutes with owner and contractor
- Schedule inspections by all required agencies and officials
- Other duties as outlined in contract

- Attend weekly progress meetings onsite

#### E. Project Close-out

- Provide accurate construction As-Built drawings representing final installation per contract in accordance with the contract.
- Provide all Operations and Maintenance Manual with all mechanical, electrical and equipment, as appropriate, including information and warranties in a bound or electronic format.
- Provide written warranties covering quality of labor and installation of all products/materials.

#### F. Other Requirements

Listed below are other requirements and information the project candidate shall include in their proposal.

- Any fee requirements must be submitted as outlined under Price/Structure Proposal.
- Identify any other work required to complete the project not outlined in this RFP.
- All fees associated with any surveys, studies and/or permitting will be the responsibility of the offeror to administer and will become a part of their contract.
- Include any and all reimbursable expenses as part of the proposed project proposal. *No separate reimbursable expenses will be paid.*
- Meet with CCPRC as needed to provide and receive information.
- Contractor should be prepared to revise work as needed, to meet the project goals, plans, specifications and budget
- Provide a proposed schedule to complete the project, at the start of project.

#### G. Ownership of Contractor's Work Product

Survey documents prepared by the construction team for this project are for CCPRC's use. CCPRC shall have sole ownership of such documents to include making reproducible copies for its use and information in connection with follow-up contracts for design services, further planning, construction, or for permitting uses.

#### H. Schedule

Proposals shall include a general timeline to accomplish all tasks. The candidates' proposal must clearly address their ability to meet the intended schedule.

The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) execute the work diligently, and (c) complete the entire work ready for use not later than 120 days from the Notice to Proceed. The time stated for completion shall include final cleanup of the premises. Contractor shall achieve final completion within thirty (30) days of Substantial Completion.

#### I. Price Structure

Total cost shall be given for work including fixed price (item 1); hourly rates, fixed fees, not to exceed (item 2), options/alternates (items 3 through 9).

### **III. Qualification/Evaluation**

It is of utmost importance for firms to demonstrate qualifications, competence and capacity to provide the Construction services for the MCLEOD STABILIZATION CONSTRUCTION. CCPRC is ultimately concerned about the costs for this project, the specific and primary attention to the evaluation of the proposals will include the following factors, not necessarily listed in the order of importance:

- 1) Corporate Experience
- 2) Past Performance
- 3) Project Approach and Performance Differentiators
- 4) Capacity

CCPRC reserves the right to request additional information from one or more firms after the submission of the initial proposals in order to clarify, confirm or properly evaluate any proposals. CCPRC also reserves the right to negotiate terms of the contract with the intended firm pursuant to CCPRC's Procurement Policy.

There is no expressed or implied obligation for CCPRC to reimburse responding firms for any expenses incurred in preparing the proposal and/or any subsequent interview and/or requests for additional information.

### **A. Criteria for Selecting Contractors based on Qualifications and Price**

#### **OFFEROR REPRESENTATIONS**

Each Offeror by submitting qualifications represents that:

- A. The Offeror has read and understands this solicitation (including all Attachments) and that his offer is made in accordance therewith.
- B. The Offeror has reviewed the solicitation, has become familiar with the local conditions under which the service is to be performed, and has correlated personal observations with the requirements of the proposed Contract Documents.
- C. The Offeror is qualified to provide the services required under this solicitation and, if awarded the contract, will do so in a professional, timely manner using successful Offeror's best skill and attention.

### **B. BASIS OF AWARD**

The award determination shall be based on technical factors and price which together constitute a best value to the CCPRC; however, not necessarily the lowest price. The objective is selection of contractor whose overall proposal demonstrates the best value to CCPRC based on the stated criteria. Under this RFP, technical is approximately 60 points. As proposals become more equal in technical merit, the evaluated cost or price becomes more important.

Following the deadline for submittal of qualifications, a selection committee will review, analyze and rank all submittals based on their response to the information requested.

If desired, the selection committee may conduct discussions with short listed firm(s) submitting responses and shall select from among them the firm(s) deemed most qualified to provide the required construction. At the discretion of CCPRC, the discussions with the firm(s) may consist of written questions and responses, and/or personal interviews with members of the firm(s). If personal interviews are required by the CCPRC, the persons proposed to be responsible for performing the work required herein shall attend the interview. If requested, firms should be prepared to submit financial status information, which shall be held in confidence.

The CCPRC reserves the right to reject any or all submittals, and to waive defects, technicalities and/or irregularities in any submittal. The CCPRC reserves the right to finalize a contract based on all factors involved in the written qualification submittal without further discussion or interviews.

## **C. BASIS OF EVALUATION FOR EACH FACTOR**

### **(a) Price:**

Basis of Evaluation: CCPRC will evaluate price based on the total price proposal submitted for item 1 and items 3 thru 7. Analysis will be performed by one or more of the following techniques to ensure a fair and reasonable price:

- (i) Comparison of proposed prices received in response to the RFP.
- (ii) Cost realism analysis will be performed.

### **(b) Technical Factors:**

The offeror shall be rated higher during evaluations if their proposal meets or exceeds the following items:

## **D. EVALUATION CRITERIA**

Each response to this Request for Qualifications will be subject to the same review and assessment process. Qualification submittals will be evaluated on the basis of the Firm's technical capability and experience. All firms submitting qualifications must provide at a minimum, their firm's expertise and capabilities as they relate to the Factors 1 through 4, with regard to the work outlined by the RFP.

a. The distinction between corporate experience and past performance is corporate experience pertains to the types of work and volume of work completed by a contractor that are comparable to the types of work covered by this requirement, in terms of scope and complexity. Past performance relates to how well a contractor has performed.

b. All firms will be evaluated on the 4 Factors listed in order of importance.

The relative order of importance of the technical evaluation and subfactors is Factors 1 and 2 are equal in importance to each other and are 2(x) greater than Factors 3 and 4. Factors 3 and 4 are equal in importance to each other. All subfactors within technical factors 1, 2, 3 and 4 are of equal importance.

## **FACTOR 1, Corporate Experience: (20 points)** **Construction Team**

**Basis of Evaluation:**

The offeror will be evaluated to determine if he has demonstrated the necessary corporate experience in performing relevant construction projects similar in complexity, similar historic structures described in the Scope of Work and magnitude to the RFP. "Relevant" is defined to mean that the offeror provides projects that are similar in nature as to the scope and complexity to the RFP. Only contractors with a minimum of five years relevant experience with historic structures that were performed in accordance with the Secretary of the Interior's Standards for Rehabilitation will be considered for this work on McLeod Plantation.

**Similar scope is defined as follows:**

A contractor who has assembled a team that has proven skills to accomplish all tasks required including the manpower, appropriate tools, and necessary equipment to accomplish all construction required to stabilize and preserve the historical and architectural integrity of structures such as work required on structures listed on the National Register for Historic Places.

A general contractor who has proven skills as a successful leader in managing subcontractors, specialty trades and working with local contractors in historic restoration and preservation is important to this project.

**EVALUATION CRITERIA:**

Proposals shall identify the Principal-in-Charge and Project Manager for this project. Proposals shall also provide a statement of the firm's commitment that the identified individuals will be involved throughout the entire project and must address this, at a minimum. The organizational strength and stability of the responding firm is an important component to the selection process. The experience of work by the firm, which was obtained by personnel no longer with the firm, and therefore, not available for work the project, is of no interest to CCPRC and shall not be submitted in the response when providing the firms qualifications. CCPRC evaluators will only consider firm projects that were presided over by project members who still work for the firm in the office submitting a proposal. Failure to properly identify work accurately may disqualify the proposal.

Provide documentation of the firm's capability and experience. Include:

- Demonstration of firm's ability, including general contractors with specialties such as similar historic structures as previously defined on this page to perform the indicated services.
- Organization Chart of the Project Team including subcontractors, showing member names.

Proposal shall clearly address the following:

- a. Names, titles and responsibilities of those who would work on this project.
- b. Resume of each project team leader that will be assigned to this project to include education and/or related experience.
- c. Applicable Professional Registrations and licenses
- d. Longevity with firm.
- e. Membership in professional organizations
- f. Description of previous work similar to MCLEOD STABILIZATION CONSTRUCTION .
- g. Professional awards received by the individual or projects where the individual played a key role.

- h. Detail individual's experience in the capacity of Project Manager that will be assigned to this project - highlighting experience with similar projects.
  - i. Provide the title of the referenced project, year work was done, name of the client and the name, address and telephone number of a contact person knowledgeable of that individuals' role on the project.
- For the office proposed to provide these services:
    - a. Number and discipline of Professional staff employees
    - b. Number of Non-Professional technical staff employees
    - c. Total number of staff, including administration, employees
    - d. Firm's background including organizational structure and years in existence.
    - e. Firm's memberships in professional organizations
    - f. Number of firm's billings for each of the past five years.
    - g. Percentage of fees derived from historical restoration or preservation related work.
    - h. Describe what, in your opinion, your firm has that is unique to CCPRC and how that might impact how you intend to complete the scope of services outlined in this RFP and in accordance with CCPRC's policies and procedures.
    - i. Subcontractors – including surveyors: Proposal shall clearly indicate any and all subcontractors and surveyors who they are recommending for the project. Any and all fees associated with any of these areas will be the responsibility of the selected firm to administer and will become a part of the contract and invoiced through the prime contractor.
    - j. Please sign the attached contract. Contractor will be required to comply with the terms and conditions of CCPRC's contract document.

**(i) Solicitation Submittal Requirements:**

The offeror is responsible to provide the attached Corporate Experience form (Attachment C) to prior employers who are then, to fill out and submit them to CCPRC's procurement coordinator.

**(a) RESTORATION EXPERIENCE**

The purpose of this section is to establish that the general contractor, superintendents, and subcontractors have the experience necessary to carry out the specific work required for this historically significant project.

**1.1 General Contractor Project Experience:**

Only contractors with a minimum of five years relevant experience with historic structures similar to the project will be considered for this work on McLeod Plantation. Please list only projects completed within the past five years. Complete Attachment C for all projects listed in this section. Only one inventory should be submitted for a multiple listed project. Include a detailed description with each project explaining the scope of work performed.

- A. Historic Projects: List four projects involving the restoration of one or more historic structures. All of these projects should meet the US Secretary of the Interior's Guidelines for Historic Preservation Projects.
- B. Categories of Work: List four projects involving each of the following categories of work. This list may include projects listed under Section 1.1.A above. In addition, a single project may appear many times within the list below. It is possible that a single project may have involved all or most of the required categories of work.
  - 1. Masonry: Repointing and reconstruction historic masonry.
  - 2. Finish Carpentry: Repair of historic wood finish members, including partial replacement of damaged members, and reproduction of new members to match existing:
  - 3. Painting: Stripping of paint from a historic wood substrate with chemical strippers, neutralizing, and repainting.
  - 4. Provide all applicable contractor licenses: include license name, license numbers and contact information.

### **1.2 Superintendent Experience:**

- A. Please attach a resume for the project superintendent.
- B. Project Experience: Please list four projects involving the restoration of a historic structure. Projects should meet *the US Secretary of the Interior's Guidelines for Historic Preservation Projects*. This list may include projects listed in the section above.

### **1.3 Subcontractor Experience:**

- A. The general contractor may fulfill the requirements of some subcontractors. The general contractor need not prequalify a subcontractor for the above categories if:
  - 1) The general contractor's crews have performed their required work listed in this section, and
  - 2) The work was performed under the direct supervision of the superintendent that will manage this project.

If the general contractor can meet both requirements, he should indicate so, fill out the Historic Projects information, and attach the Project Information Inventories (for sub-contractors).

List four completed historic structure projects for EACH subcontractor specialist (masonry, carpentry, painter, etc) that is to work on this project. Provide for each subcontractor (surveyor does not have to have worked on historic structure project). List only projects completed within the past

five years. Complete and attach Corporate Experience, Attachment A for all projects listed in this section. Only one inventory should be submitted for a multiple listed project.

**IT IS THE OFFEROR'S RESPONSIBILITY TO ENSURE POINTS OF CONTACT, TELEPHONE NUMBERS AND EMAIL ADDRESSES ARE ACCURATE AND CURRENT.**

**FACTOR 2 Past Performance: (20 points)**

**Prime Contractor/Subcontractors Construction Team**

Basis of Evaluation: The degree to which past performance evaluations and all other past performance information reviewed (e.g., performance recognition documents, and information obtained for any other source) reflect a trend of satisfactory performance considering:

While not a requirement, a favorable response would be provided for a team who has previously worked together successfully on one or more projects similar to the proposed project.

A pattern of successful completion of tasks;

A pattern of deliverables that were timely and of good quality;

A pattern of cooperativeness and teamwork at all levels (task managers, contracting officers, procurement office, auditors, etc.);

Licenses unique to the field of historic preservation

Tasks that are identical to, similar to, or related to the task at hand; and

An ability shown, thru workmanship provided on other projects, to successfully follow the guiding principles for this site.

A respect for stewardship of CCPRC funds

In addition to the above, CCPRC may review any other sources of information for evaluation past performance.

Other sources may include, but are not limited to inquiries of owner representative(s), and any other known sources not provided by the offeror. While CCPRC may elect to consider data from other sources, the burden of providing detailed, current, accurate and complete past performance information rests with the Offeror.

Attach to the proposal, letters of recommendation, awards, acknowledgements, etc.

**EVALUATION CRITERIA:**

Provide recent (within the past five years) experience (provide reference contacts with current phone number) and a listing of key members of the firm, their experience with similar projects and their role in the projects, a listing what your firm offers that others may not, relevance and appropriateness of firms' expertise and experience in building stabilizations historic restoration and renovation, roofing, brickwork, and any other trade that is applicable to this project. Proposal must address the:

1. Specific experience of a comparable nature with emphasis on historic restoration and structure stabilization.
2. Specifics regarding the efficiency and accuracy of cost estimates for any previous comparable projects.
3. The contractor is encouraged to submit any other information they believe will enhance their position in the evaluation criteria.
4. Submit any other information to enhance your position in the evaluation criteria.
5. Include experience in other proposed elements of this RFP as deemed applicable to demonstrate firm/personnel qualifications.

(i) **Solicitation Submittal Requirements:** The Past Performance Questionnaire, Attachment D, included in the solicitation is provided for the offeror or its team members to submit to the client for only five projects (the “first” five Past Performance Questionnaires will be the only items evaluated) the offeror includes in its proposal for Factor 1 Corporate Experience. Ensure correct phone numbers and email addresses are provided for the client points of contact. Completed Past Performance Questionnaires are to be mailed or faxed from the client directly to CCPRC, not be submitted via the offeror. Include with your proposal submission a copy of the Past Performance Questionnaire Cover Sheet which contains the point of contact information for each client questionnaire. Also include performance recognition documents received within the last five years such as awards, award fee determinations, customer letters of commendation, and any other forms of performance recognition.

### **FACTOR 3 Project Approach and Performance Differentiators (10 points)**

#### **Construction Team**

Basis of Evaluation: The offerors may be rated higher during evaluations if their proposal meets and/or exceeds the following items:

- Capability to provide the most cost effective construction approach to meet the design intent, including durability, functionality, maintenance and constructability requirements
- Ability to provide unique qualifications and /or accomplishments and submittals for approval, realistic costs and good description of how cost controls will be handled throughout a project
- The approach in working with and receiving permitting
- Knowledge of local site conditions and applicable regulatory requirements
- The ability of the firm to ensure timely response to requests for on-site support
- Demonstrated creativity in solving difficult solutions to construction challenges

#### **EVALUATION CRITERIA:**

#### **Factor and Solicitation Submittal Requirements:**

1. Provide a description, specific example(s), and reference contacts and phone numbers that demonstrates the firm’s capabilities in the following areas.
  - a. Capability to select the most cost effective construction to meet the durability, functionality, maintenance and constructability requirements.
  - b. Provide unique qualifications and /or accomplishments, if any, that differentiate your firm and the proposed project manager as being uniquely qualified for performing the anticipated services.
2. Describe firm’s ability to provide realistic budgets and implement cost controls throughout a project.
3. Provide detailed description of your firms approaching in working with and receiving permitting.
4. Knowledge of local site conditions and applicable regulatory requirements and the ability of the firm to ensure timely response to requests for on-site support.
5. Indicate the individual in the firm responsible and their proposed involvement in the project.

### **FACTOR 4 Capacity (10 points)**

#### **Construction Team**

Basis of Evaluation: The offeror will be evaluated to determine if their proposal meets or exceeds the proposed schedule.

- A critical timeline that shows how the 120 day timeline will be used efficiently and effectively.
- The team demonstrates the ability to meet the proposed schedule

## **EVALUATION CRITERIA:**

### **Factor and Solicitation Submittal Requirements:**

1. Schedule. Team's ability to meet the proposed schedule for completion within one hundred twenty (120) calendar days from contract award, including all owner reviews and permitting applications.
2. Time schedule for completion of the project. Describe your firms approach to the project timelines.

#### **IV. Submittals**

##### **(a) Price**

(1) Solicitation Submittal Requirements: Submit an original clearly marked "Original" and two copies of the price proposal with Certifications and bid bond in a separate sealed envelope with a cover page including name of prime contractor, address, phone, email and fax numbers, contract solicitation number and point of contact. Submit the price proposal at the same time as the technical proposal. **Submit an electronic copy of your price proposal (in PDF) on one electronic copy (CD).**

Price proposals are to be submitted by closing. All Price/Price Structure proposals must be sent in a separate sealed envelope to the attention of Ms. Deborah P. Taylor, Procurement Coordinator, 861 Riverland Drive, Charleston, SC 29412 and clearly marked on the bottom left hand corner "Price Proposal – MCLEOD STABILIZATION CONSTRUCTION, RFP#2012-002-OPS and name of firm".

##### **(b) Technical Factors:**

Submit one original clearly marked "Original" and three (3) copies in 8-1/2 x 11 format, font size 12. Provide the proposals in three ring binders with a cover page including name of prime contractor, address, phone, email and fax numbers, contract number and point of contact. **Submit an electronic copy of your technical proposal (in PDF) on one electronic copy (CD).**

Technical Proposals shall be received by October 4, 2011, 2:00 pm ET. All Technical proposals must be sent in a separate sealed envelope to the attention of Ms. Deborah P. Taylor, Procurement Coordinator, 861 Riverland Drive, Charleston, SC 29412 and clearly marked on the bottom left hand corner "Technical Proposal – MCLEOD STABILIZATION CONSTRUCTION, RFP#2012-002 and name of firm".

Contractors shall address all items as specified in this section. Failure to adhere to this format or to address all items specified may disqualify a Contractor from further consideration. Contractors are also encouraged to include any additional information they wish to be considered.

Please sign the contract agreement on the final page of the document and return. Your offer on this solicitation will become the agreement with the successful offeror(s) if negotiations are not necessary and when signed by CCPRC on the final page.

**Any questions or requests for clarification of the RFP must be made, in writing, no later than 2:00PM on September 23, 2011 to the attention of Ms. Cynthia Montague, Assistant Director Capital Projects, 861 Riverland Drive, Charleston, SC or by e-mail to [cmontague@ccprc.com](mailto:cmontague@ccprc.com) . No questions will be addressed after that deadline. An addendum, if deemed necessary, will be issued no later than September 27, 2011.**

**All proposals submitted will become the property of CCPRC and are subject to public record law. If proposal contains proprietary information the Proposer shall include a cover letter indicating the proposal contains such information. In addition, any information in which the proposer considers proprietary, MUST be clearly marked “proprietary” next to the relevant part of the text in order for it to be treated as such.**

Submit qualifications in the following format:

**A. Title Page**

Title page showing the Request for Proposal subject; the firm's name; the name, address, and telephone number of a contact person; and the date of the submittal.

**B. Table of Contents**

Provide Table of Contents to aid the evaluation of the qualifications.

**C. Transmittal Letter**

A signed letter of transmittal briefly stating the offeror's understanding of the work to be done, the commitment to perform the work, a statement why the firm believes itself to be best qualified to perform the engagement, and a statement that the submittal is a firm and irrevocable offer for 60 days.

**D. Detailed Submittal**

The purpose of the detailed submittal is for the Offeror to demonstrate their qualifications, competence, and capacity to provide professional architectural services to the CCPRC in conformity with the requirements of this solicitation.

Offeror shall submit a qualification for this project meeting the minimum requirements listed. Address each item listed in the Evaluation Criteria based on the ability of your firm as required.

Offerors should address all the points outlined herein.

**E. Non Collusion Oath**

Please sign the Non-Collusion Oath which is E.

**V. Selection Process**

CCPRC reserves the right to reject any and/or all proposals that do not adequately meet the intent of the RFP. CCPRC also reserves the right to accept the proposal as a whole and/or any items listed in the RFP.

The Request for Proposal packet will be available to any qualified consulting firm wishing to respond. Firms may submit proposal packets as individual firms and/or may team with other qualified consulting firms. No proposal may be withdrawn for a period of sixty (60) days after the date the proposals are due. Listed below is the anticipated schedule for the selection process.

Date Advertised:	September 3 and 11, 2011
Date Available:	September 8, 2011
Pre-Proposal Meeting:	Sep 20, 2011 9:00 AM ET (on Site)
Deadline for Questions:	Sep 23, 2011 2:00 PM ET
Final Addendum Issued,	Sep 27, 2011
Proposals Due:	Oct 4, 2011 2:00 PM ET
Commission Approval:	Oct 17, 2011
Award of Contract:	Following Commission Approval
Final Project Completion:	120 calendar days from Notice to Proceed

#### VI. Qualification/Evaluation

##### **Factor 1– Corporate Experience**

##### **Construction Team**

##### **Factor 2 – Past Performance**

##### **Prime Contractor/Subcontractors**

##### **Factor 3 – Project Approach and Performance Differentiators**

##### **Construction Team**

##### **Factor 4 – Capacity including experience with permitting agencies, if applicable**

##### **Construction Team**

CCPRC may request additional information from one or more firms after the submission of the initial proposals in order to clarify, confirm or properly evaluate any proposal. CCPRC also reserves the right to negotiate terms of the contract with the intended firm pursuant to CCPRC's Procurement Policy.

There is no expressed or implied obligation for CCPRC to reimburse responding firms for any expenses incurred in preparing the proposal and/or any subsequent interview and/or requests for additional information. The contractor is required to sign the attached CCPRC's contract with the submission of their proposal. A copy of the firm's proposal will be incorporated and become a part of the contract; however, in the event of any ambiguity with any attachments, CCPRC's contract and Procurement Policy will prevail.

#### VII. Price Structure

Total cost shall be given for work outlined in this RFP and proposals shall include the Price Proposal on pages 3 and 4.

Item 1 - The price shall be lump sum price for the construction of item 1 the first nine buildings; however, the individual costs shall be broken down for each of the first nine buildings that are to receive work. This work is a firm fixed price contract.

Item 2 - The other four buildings will be stabilized following an evaluation by the Owner Architect Structural Engineer. The work will be an allowance. The Not to Exceed amount for Labor and Material (Item 2) is provided by the Owner. The Labor Rate is to be priced in the proposal and any additional Material Handling or any other fees if any are to be priced by the contractor in the proposal. These items will require invoices certified by the contractor and the contractor's supplier invoice to be submitted to the Owner for approval for payment. Item 3 through 9 are Option/alternate items. Items 3 thru 6 are additional items and item 7 is a deduct item. CCPRC will evaluate offers for award purposes on item 1 and items 3 thru 6. CCPRC will evaluate offers for award purposes by adding the total price for Item 1 and items 3 thru 6. Evaluation of options will not obligate CCPRC to exercise the option(s).

Offerors submitting a proposal will be required to provide a price proposal in a separate sealed envelope for items 1 through 9, clearly marked "Price Proposal/Structure," (2012-002-OPS, CONSTRUCTION MCLEOD STABILIZATION CONSTRUCTION).

**Fee Negotiations if necessary and Contract Award:** Fees will be negotiated with the top selected candidate in accordance with CCPRC's Procurement Policy. If negotiations are necessary with the top-ranked or successful offeror and fail to reach an agreed fee arrangement, CCPRC will cease negotiations with the successful offeror and commence negotiations with the second highest ranked offeror. This process will continue until a mutually agreeable fee arrangement is reached between a qualified offeror(s) and CCPRC at which time an amendment will be signed by the offeror(s). The negotiated agreement will become part of the agreement when signed by CCPRC on the final page.

When necessary CCPRC utilizes the State Guidelines when negotiating fees. Fee proposal shall include, but not be limited to, the following:

- Fees required in accordance with the anticipated Scope of Work and Contractors approach to complete the project.
- Fee structure proposal shall contain all pertinent pricing information relative to performing the type of work described in this RFP, including hourly fees of the proposed project team.
- Fee structure shall contain estimates of all direct and indirect costs, including all reimbursable expenses for each proposed phase of the work being considered under this RFP.
- Hours and hourly rates for team members.
- Cost estimates and/or allowances for any or all surveys, studies, permits, etc. required to complete the project and/or as outlined by the Contractor in their approach and proposal.
- Any and all reimbursable expenses and/or any other costs required to complete this project.

## VIII. OFFEROR REPRESENTATIONS

Each Offeror by submitting qualifications represents it:

- A. Has read and understands this solicitation (including all Attachments) and that his offer is made in accordance therewith

- B. Has reviewed the solicitation, has become familiar with the local conditions under which the Construction Services are to be performed, and has correlated personal observations with the requirements of the proposed Contract Documents
- C. Is qualified to provide the services required under this solicitation and, if awarded the contract, will do so in a professional, timely manner using successful offeror's best skill and attention
- D. Has examined the proposed site of the project and all information available
- E. Has become familiar with all the conditions related to the proposed work, including the availability of labor, materials, and equipment
- F. Has provided information and submittals which are accurate and correct
- G. Has become familiar with all local codes, review agencies and local review boards
- H. Has the appropriate active Professional licenses and Contractor's license required by the State of South Carolina, local code authorities and regulatory agencies

Submitter hereby offers to furnish all labor, materials, equipment, tools, transportation and services necessary to complete the proposed work on this project in accordance with the scope of work for the MCLEOD STABILIZATION CONSTRUCTION and the contract documents for the prices quoted.

#### IX. SBE AND LOCAL VENDOR POLICIES

Contractor shall fully comply with CCPRC's SBE and Local Vendor Policies and requirements which are attached hereto and incorporated by reference (See Attachments F and G).

#### X. OUT OF STATE CONTRACTORS AND SUBCONTRACTORS

Out of state Contractors and Contractors are required to complete form I-312, Nonresident Taxpayer Registration Affidavit Income Tax Withholding form, see I-312, H of the solicitation.

#### XI. INSURANCE REQUIREMENTS

See Insurance Requirements, attachment I in solicitation.

#### XII. ASBESTOS & LBP Study

Contractor will encounter and shall be required to remove Lead Based Paint. EPA Certification Guidelines for removal are required to be utilized, see Asbestos & LBP Study, Attachment J of the solicitation.

Except for the Lead Based Paint, the Contractor and subcontractors shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. However, if those or any other toxic substances are discovered

a change order may be requested by the Contractor in accordance with Article 3 of the contract.

### XIII. SPECIFICATION ATTACHMENTS

Paint color analysis is provided in Attachment K - Exterior Finishes Report.

### XIV. ADDENDUM

Submitter acknowledges that it is the submitter's responsibility to determine whether an Addendum has been issued; and if so, to obtain copies of such Addendum from the Charleston County Park Procurement Coordinator which are posted with the solicitation on [www.ccprc.com](http://www.ccprc.com) , and agrees to be bound by all addenda that have been issued for this request for proposal. Register on website to receive notice of addenda being posted. If addendum is issued, offeror shall sign and return each addendum with the proposal submitted. Failure to return signed any and all addendum may disqualify bidder.



**CONTRACT DOCUMENT**

**CHARLESTON COUNTY PARK & RECREATION COMMISSION  
861 Riverland Drive  
Charleston, South Carolina 29412**

Request for Proposal -  
McLeod Stabilization Construction

2012-002-OPS

**AGREEMENT**

made as of the \_\_\_\_\_ day of \_\_\_\_\_,

BETWEEN the Owner: Charleston County Park & Recreation Commission ("CCPRC")

and the Contractor: \* *(Insert - Name and address, phone number and email address)*

CCPRC'S Project Number: # 2012-002-OPS

Project:

The Charleston County Park and Recreation Commission (CCPRC) MCLEOD STABILIZATION  
CONSTRUCTION

The Owner and Contractor agree as set forth below.

**ARTICLE 1**  
**CONTRACTOR'S RESPONSIBILITIES**

The Contractor acknowledges that it has thoroughly examined and understands the requirements of Request for Proposal (RFP) No. 2012-002-OPS MCLEOD STABILIZATION CONSTRUCTION issued by the Charleston County Park and Recreation Commission ("CCPRC") for the Construction services for MCLEOD STABILIZATION CONSTRUCTION. The general scope of work is attached hereto as Scope of Work . Contractor agrees that the Scope of Work required under this Request for Proposal includes all labor, materials, equipment, utilities and services required for the rehabilitation of these structures including permitting, comply with all state and local codes, cost estimating, testing standards and construction of the project, which are reasonably required to complete the tasks set forth in Scope of Work of the RFP, and to otherwise meet the intent of the RFP. The price shall be lump sum price for the construction of item 1 the first nine buildings. Item 2 is for the other four buildings will be done following an evaluation by the Owner Architect Structural Engineer and contractor. The work will be done with an allowance NTE \$ 84,800.00. The Labor Rate is to be priced in the proposal and any additional Material Handling or any other fees if any are to be priced by the contractor in the proposal. Item 3 through 9 are Option/alternate and unit price items.

The Contract Documents for this Contract consist of this Agreement, and any Attachments or special conditions attached hereto, the Bid Document, All Addenda, Drawings, and/or Specifications, issued prior to execution of the Agreement between the Owner and Contractor, all change orders issued subsequent thereto, and all documents listed below:

*The following documents are attached hereto and incorporated herein by reference; however, in the case of any ambiguities with attached documents, CCPRC's contract and Procurement Policy will apply.*

Request for Proposal  
Scope of Work  
Attachment A – Specifications  
Attachment B – McLeod Stabilization Construction Drawings  
Attachment C – Corporate Experience Form  
Attachment D – Past Performance Questionnaire  
Attachment E – Non-Collusion Oath  
Attachment F – Small Business Enterprise Policy  
Attachment G – Local Vendor Policy  
Attachment H – I-312  
Attachment I – Insurance Requirement  
Attachment J – Asbestos & Lead Base Paint Study  
Attachment K – McLeod Plantation Exterior Finishes Report

The RFP submitted and any signed amendments shall be incorporated and become part of the agreement when signed by CCPRC.

The Contract is governed by the Charleston County Park and Recreation Commissions (CCPRC) Procurement Code, which may be obtained by request. CCPRC's Procurement Code shall prevail over any conflicting provisions of the contract, including the special or supplementary conditions of the contract and the general conditions of the contract.

Contractor is not authorized to commence work, nor is CCPRC legally obligated until this agreement is executed by CCPRC, and the contractor returns any bonding and/or insurance requirements and CCPRC issues an executed Notice to Proceed. Any work/services undertaken prior to the execution of this agreement and submittal and approval of required documents and the issuance of the Notice to Proceed is at the Contractor's financial risk.

"Owner" shall refer to CCPRC.

## **1.1 CONTRACTOR'S WORK/SERVICES**

1.1.1 The Contractor's work/services consists of all work performed by all employees and contractors as enumerated in this Agreement.

1.1.2 The Contractor's work/services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Contractor shall submit for the Owner's approval a schedule for the performance of the Contractor's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule and approved by the Owner shall not, except for reasonable cause, be exceeded by the Contractor.

## **ARTICLE 2** **SCOPE OF CONTRACTOR'S BASIC WORK/SERVICES**

### **2.1 DEFINITION**

2.1.1 Work is for construction work to stabilize, and preserve the historic and architectural integrity of a total of thirteen structures on McLeod Plantation (on the National Register of Historic Places), located on James Island in the City of Charleston, SC, 325 Country Club Road.

The Contractor's Basic Work/Services consist of those work/services described in this agreement and is to include but not limited to restorative, and structural services as described in the plans and specifications for MCLEOD STABILIZATION CONSTRUCTION.

### **2.2 Construction Implementation**

The Scope of Work required includes all labor, materials, equipment, utilities and services required for the rehabilitation of these structures including permitting, compliance with all state and local codes, cost estimating, testing standards and construction of the project.

### **2.3 Project Management/Construction Administration**

Construction superintendent to provide construction coordination, is responsible for communicating with owner, contractors and provides directives to sub-contractors.

General Contractor is to be responsible for overall project construction quality control including strict protection of existing trees from construction equipment

Maintain work schedule  
Provide inspection/field condition reports  
Schedule construction meetings  
Provide input for reports and  
Attend minutes with owner, consultants and subcontractors  
Schedule inspections by all required agencies and officials  
Attend weekly progress meetings onsite  
Responsible for all project billing  
Other duties as outlined in contract

## 2.4 **Project Close-out**

Provide accurate construction As-Built drawings representing final installation per contract in accordance with the contract.  
Provide all Operations and Maintenance Manual for all mechanical, electrical and equipment, as appropriate, including information and warranties in a bound or electronic format.  
Provide written warranties covering quality of labor and installation of all products/materials.

2.4.1 The Contractor shall identify requirements for any permits or documentation required by any governmental authority and shall assist the Owner in filing documents required for the approval of governmental authorities having jurisdiction over the Project. All permitting costs are to be included in the base bid

## 2.5 **CONSTRUCTION PHASE**

2.5.1 The Contractor's responsibility during the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates upon completion of the Contractors obligation under the warranty period.

### **ARTICLE 3** **CHANGES IN THE CONTRACT**

3.1 **Changes Requested by Owner.** CCPRC may unilaterally, at any time, on written order, without notice to the surety, and without invalidating the Contract, make changes in the work herein contracted for. CCPRC shall notify the Contractor that it is considering such a change and Contractor shall provide with a proposed price and scheduling proposal for all costs and impacts arising from the changed work in writing within seven (7) calendar days of CCPRC's written notice. Thereafter, if the parties are in agreement, CCPRC and Contractor shall execute a written change order which modifies this Agreement. In the absence of such an agreement, the parties shall proceed pursuant to Article 3.3. The agreed amount of payment and adjustment in Contract schedule, if any, in a written executed change order constitutes a full, complete, and final payment for all work arising from the change order. Contractor, in executing any such change order, waives any entitlement to additional compensation or extensions of time arising from the change.

3.2 **Changes Requested by Contractor.** Should Contractor find it necessary to request any changes in the scope of work or any time extensions during the course of construction, Contractor shall submit a written request which includes a pricing and a scheduling proposal to the Owner within seven (7) days of the event giving rise to the change request. If Owner is in agreement, Owner shall issue a written change order or may request additional information within seven (7) days of receipt of Contractor's request. All pricing and

scheduling proposals are subject to independent verification and audit. Contractor agrees to make all records relating to any pricing or scheduling proposal available for CCPRC's inspection. Absent written approval of the Owner, through the execution of a written change order, or issuance of a change directive, the Contractor shall not proceed with performing such additional work (unless CCPRC determines that such work is in the original scope of this contract). Contractor acknowledges that Owner's execution of a written change order or change directive under Article 3.3 is a condition precedent to any payment for work included in the Change Order or any adjustment in the Contractor's schedule. Contractor hereby waives any entitlement to additional compensation or extensions of time to the extent that Contractor performs any additional work without written approval of Owner.

**3.3 Construction Change Directive.** To the extent that CCPRC desires to make changes pursuant to Article 3.1 or 3.2, above, and the parties are unable to execute a written change order as a consequence of disagreements as to the cost adjustment or scheduling impact of such changes, CCPRC may unilaterally direct the Contractor, in writing, to perform work through a written construction change directive. Contractor shall promptly perform such work in accordance with the change directive. In such instance CCPRC shall pay the Contractor any undisputed sums upon completion of the work. In such cases, Contractor may assert claim for additional payment pursuant to Article 11, hereunder.

**3.4 Limits on Contract Adjustments:** The following limitations shall apply to any change orders issued pursuant to Articles 3.1 and 3.2, or any construction change directives under Article 3.3. CCPRC's total liability for any changes under Article 3 shall not exceed the cumulative total of the following costs which are incurred in connection with the performance of a change order or change directive:

- (a) The Contractor's direct labor, costs and labor burden associated with performance of the work,
- (b) The direct costs of any subcontractor,
- (c) The direct costs of any materials, including applicable sales taxes,
- (d) Rental costs of any rental equipment,
- (e) Ownership costs of any owned equipment, and
- (f) Field and general overhead, direct profit, and profit above subcontractor cost shall be considered as an aggregate total and shall not exceed 15 % of the change order cost.

**3.5 CCPRC's Right to Audit:** The Contractor shall keep full and accurate records of all costs incurred and items billed in connection with the performance of the Work, which records shall be open to audit by CCPRC or its authorized representatives during the performance of the Work and until three (3) years after Final Payment. In addition, the Contractor shall make it a condition of all Subcontractors relating to the Work that any and all Subcontractors will keep accurate records of costs incurred and items billed in connection with their work and that such records shall be open to audit by CCPRC or its authorized representatives during the performance of the Work and until two (2) years after its completion.

**3.6 Delays:** Contractor recognizes and acknowledges that from time to time on construction projects of this magnitude, some delay is inevitable and contractor's price takes into account such periodic, sporadic and relatively brief delays. The Owner shall not be liable to the Contractor for the occurrence of any reasonable delay (any delay of seven calendar days or less for each occurrence is deemed reasonable) to the

Contractor's work by the act, neglect, or default of the Owner, or on account of any circumstances caused or contributed to by the Contractor. Contractor shall be entitled to a time extension for any period of delay caused by Owner. To the extent Contractor believes any act or failure to act of the Owner gives rise to an unreasonable delay, Contractor shall notify Owner in writing within seven (7) days of the circumstances given rise to the delay. Contractor's failure to notify Owner of such delay in writing constitutes a waiver of any entitlement to additional compensation or extension of time for any costs or extensions of time incurred prior to such written notice. Contractor hereby waives any claim or entitlement to lost profit, consequential damages, extended home office overhead or unabsorbed or under absorbed home office overhead for such reasonable periods of delay or such unreasonable periods of delay attributed to Contractor's failure to provide timely notice to Owner.

#### **ARTICLE 4** **TIME**

- 4.1** The work to be performed by the Contractor under this Contract shall be Substantially completed within 120 days from notice to proceed or sooner. The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 120 days from the notice to proceed. The time stated for completion shall include final cleanup of the premises. Contractor shall achieve final completion within thirty (30) days of Substantial Completion.
- 4.2** Substantial Completion; Substantial completion of the Work, or designated portion thereof, is when the construction is sufficiently complete, in accordance with the Contract Documents, so that CCPRC or separate contractors can occupy and utilize the Work for the use for which it is intended with all of the installations, parts and systems required by the Work hereunder operable and in accordance with the Contract Documents and where all such Work is complete, accessible, operable and usable by CCPRC for its full and unimpeded intended usage. Only minor or incidental corrective work under punch list items and final cleaning (if required) beyond cleaning needed for CCPRC's full use may remain for Final Completion.
- 4.2.1 Upon Substantial Completion, the Owner shall review any list submitted to him by listing outstanding "punch list" items. Contractor shall prepare his own punch list to be submitted to Owner with appropriate values for each item. Owner shall document items on the Substantial Completion Certification Form.
- 4.3** The Contractor is required to submit a Construction Schedule covering commencement of construction through completion of the work on this project. The Contractor is required to submit and periodically update the Construction Schedule on a monthly basis or, if specifically requested by the Owner, every two weeks. The Contractor agrees to furnish any and all information requested by the Owner for these periodic updates. Further, the Contractor agrees to perform his work in accordance with the various completion dates and milestones in the Construction Schedule.
- 4.4** The Contractor is expressly obligated to coordinate and schedule its work and the work of its subcontractors in cooperation with the Construction Schedule.
- 4.5** The Construction Schedule will indicate the dates for starting and completion of the various stages of construction (hereinafter referred to as Interim Completion Dates). The Interim Completion Dates set forth in the Construction Schedule shall not be revised without notice to the Owner. In the event an Interim Completion Date is not met by the Contractor, the Contractor will submit a written corrective action plan

for approval by the Owner which plan will set forth the method by which the next Interim Completion Date will be met. CCPRC assumes no responsibility for the accuracy or completeness of Contractor's schedule and scheduling adjustments.

- 4.6** Within seven (7) days after the date of this Agreement, and every one (1) week thereafter, or more often, if required by the Owner, through the date of Substantial Completion of the Project, the Owner will hold Progress Meetings at the site of the Project which shall be attended by the Design Team Project Manager, and the progress of the Work will be reviewed and discussed. The Design Team Project Manager shall preside over these meetings and shall prepare written minutes of the meetings for the Owner and Contractor. In the event it appears at any such meeting that the Contractor will not meet any Interim Completion Date set forth in the Construction Schedule, the Contractor expressly agrees that it will use its best efforts, including the employment of additional personnel, to see that the Interim Completion Date is met at no additional cost to Owner.
- 4.7** The Contractor will cooperate with the Owner and any other contractors whose work might interfere with the Contractor's work and will participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Owner of any such interference. Further, the Contractor will cooperate with the Owner in scheduling his work so as to not conflict or interfere with the work of others. Additionally, the Contractor shall take all necessary precautions to properly protect the finished work of other trades, the Owner's property, including strict protection of all grand trees, wildlife, and natural habitat and property of other contractors or site visitors.
- 4.8** No extension of time of the work to be performed under this Contract will be recognized without the written confirmation and approval of the Owner, according to the following procedures:
- 4.8.1 The Contract time shall be adjusted only for Changes in the Work, Suspension of Work, and excusable delays. In the event the Contractor requests an extension of the Contract Time, he shall furnish such justification and supporting evidence as the Owner may deem necessary for the determination as to whether the Contractor is entitled to an extension of the time under the provisions of the Contract. The Owner, after receipt of such justification and supporting evidence, shall make his findings of fact and decision thereon and shall advise the Contractor in writing thereof. If the Owner finds that the Contractor is entitled to any extension of the Contract Time, the Owner's determination as to the total number of days of extension shall be based upon the currently approved Project Schedule and on the data relevant to the extension as described in the Contract Documents. Such data will be included in the next periodic updating of the Schedule. The Contractor acknowledges and agrees that actual delays (due to changes, suspension of Work or excusable delays) in activities which, according to the schedule, do not affect the Contract Time will not be the basis for a change therein.
- 4.8.2 Subject to other provisions of the Contract Documents, the Contractor may be entitled to an extension of the Contract Time (but not an increase in the Contract Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as follows:
1. Labor strikes including strikes affecting transportation that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract Time on account of an individual labor strike shall not exceed the number calendar days of said strike;

2. Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed Work or stored materials;
3. Action of the public enemy, acts of the state, federal, or local government in its sovereign capacity, and acts of another separate contractor or subcontractor in the performance of a Contract with CCPRC relating to the Project.
4. Rain days as outlined below.

4.8.3 Rain Day: For rain delays, the Contractor shall be entitled to a one day extension of time for each day in any given month that the actual rain days measured at the Charleston International Airport, or an otherwise mutually agreed upon location, exceed the NOAA average monthly rainfall for the month in Charleston, South Carolina. In order to qualify as a rain day, there must be at least one-hundredth of an inch precipitation on the date in question. The average number of days in each month receiving one-hundredth of an inch or more of rain in Charleston, South Carolina, according to NOAA are as follows:

<u>Month</u>	<u>Days</u>	<u>Month</u>	<u>Days</u>
January	5	July	11
February	5	August	9
March	6	September	7
April	2	October	1
May	6	November	2
June	9	December	5

The rain gauge at the Charleston International Airport, or an otherwise mutually agreed upon location, shall be used as the determinate for daily rain measurement. The Contractor shall submit any request for rain days by the tenth day of the following month. Rain and weather delay extensions of time are non-compensable delays and the Contractor shall be entitled to no additional compensation as consequence of rain and weather related extensions hereunder.

4.8.4 Contractor shall notify Owner in writing within seven (7) days of the first instance of any delay, disruption, interference or hindrance for which Contractor contends it is entitled to an adjustment in Contract time. The failure of the Contractor to notify the Owner within time limits prescribed herein shall be deemed a material prejudice to the interests of CCPRC and shall constitute and absolute waiver of the claim and the right to file thereafter prosecute the same.

**4.9** Failure to complete the work on time; It is mutually agreed by and between the Parties hereto that time shall be an essential part of this Contract and that in case of the failure on the part of the Contractor to complete his Contract within the time specified and agreed upon, that CCPRC will be damaged thereby; and the amount of said damages inclusive of expenses for inspection, superintendence and necessary traveling expenses being difficult, if not impossible, of definite ascertainment and proof, it is hereby agreed that the amount of such damages shall be the appropriate sum set forth in the Schedule of Liquidated Damages as liquidated damages for every calendar day's delay in finishing the Work in excess of the number of calendar days prescribed; and the Contractor hereby agrees that said sum shall be deducted from moneys due the Contractor under the Contract or, if no money is due the Contractor, the Contractor hereby agrees to pay CCPRC as liquidated damages, and not by any way of penalty, such total sum as shall be due for such delay, computed aforesaid.

**4.10** If the Contractor shall neglect, fail, or refuse to complete the work within the time specified herein, or any proper extension thereof granted, then the Contractor does hereby agrees, as part of the consideration for the awarding of this Contract, to pay to the Owner:

(a) the sum of \$100.00 per day, not as a penalty, but as liquidated damages to the Owner for each and every calendar day that the Contractor's performance extends beyond the time for Substantial Completion in the Contract for substantially completing the work, as extended by any proper change order.

**ARTICLE 5**  
**THE CONTRACT SUM**

**5.1** The Owner agrees to pay the Contractor for the performance of the work as indicated below for CONSTRUCTION SERVICES:

**Price Proposal awarded will be incorporated and made a part of this document.**

Progress payments will be based work actually performed on each task after award. The Owner shall pay the Contractor monthly progress payments within 30 days of receipt of approved Document/ Application and Certification of Payment, or accepted Payment Application Form by the Owner, according to the Contractor's schedule of values, less 10% retainage to be held until final payment. At a minimum, invoices shall contain the identity of the provider of the services, the date of the services, a description of the services, and any applicable taxes.

The price specified shall include all taxes and duties of any kind levied by federal, state, municipal, or other governmental authority, which either party is required to pay with respect to the materials or services covered by this Agreement.

Out of state Contractors/Contractors are required to complete form I-312, Nonresident Taxpayer Registration Affidavit Income Tax Withholding form, see I-312, Attachment H of the solicitation.

**5.2** No revisions will be made without prior receipt of a written change order or directive from the Owner.

**ARTICLE 6**  
**PAYMENT SCHEDULE**

**6.1** The Owner shall pay the Contractor monthly progress payments within 30 days of receipt of approved Document/ Application and Certification of Payment, or accepted Payment Application Form by the Owner, according to the Contractor's schedule of values, less 10% retainage to be held until final payment. At a minimum, invoices shall contain the identity of the provider of the services, the date of the services, a description of the services, and any applicable taxes.

**6.2** The Contractor shall, before submission of the first Application for Payment, submit to the Owner a schedule of values of the various parts of the work aggregating the total sum of this Contract, made out in such detail as the Contractor and Owner may agree upon, and, if required, supported by such evidence as to its correctness as the Owner may direct. This schedule, when approved by the Owner, shall be used as a basis for Applications for Payment, unless it is found to be in error. In applying for payment, the Contractor

shall submit a statement based upon this schedule. CCPRC may reduce or withhold any payment application which: a) overstates the percentage, b) contains any false information, c) misrepresents the status of payments to subcontractors or suppliers, d) is necessary to leave CCPRC in a secure financial condition to cover the costs of incomplete, unsatisfactory or delayed work, e) CCPRC has reasonable cause to believe a default is imminent, or g) is necessary to remedy any breach or failure of the Contractor to perform this agreement, in CCPRC's sole discretion.

**6.3** Final payment shall be made within thirty (30) days after the last of the following:

- (a) completion of the punch list;
- (b) acceptance and occupancy of the project;
- (c) submission of final Subcontractor/supplier lien releases;
- (d) submission and approval of final invoice;
- (e) submission of all product warranties and operating manuals;
- (f) receipt of (two (2) copies detailed, hand drawn as-built drawings on provided print documents
- (g) successful Final Completion inspection by the Owner as provided in Article 6.5.
- (h) satisfactory completion of all terms and conditions of this agreement.

**6.4** Before the issuance of any monthly progress payments and/or final payment, the Contractor, if required by the Owner, shall submit evidence, including, but not limited to, waivers of lien, satisfactory to the Owner that all payrolls, material bills, and all known indebtedness connected with the Contractor's work have been satisfied. Contractor shall promptly pay all suppliers and subcontractors and shall indemnify and hold harmless CCPRC from any and all sources of claims arising from Contractor's failure to promptly pay its suppliers and subcontractors. Additionally and to the fullest extent allowed by South Carolina Law, Contractor shall indemnify and hold harmless CCPRC from any and all manner of claims (including reasonable attorney's fees) allegedly covered in whole or in part or arising from in whole or impart the Contractor's negligence, failure, errors, omissions, tortuous conduct, breach of standards or customs or codes or any duties arising under this agreement.

*Contractor shall provide list of all subcontractors.*

**6.5** Final Inspection: The Owner will make only two (2) such inspections to determine Final Completion.

6.5.1 Following the Owner's issuance of the Certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's Final Completion of Work, the Contractor shall forward to the Owner that a written notice that the Work is ready for final inspection and acceptance, and shall also forward to the Owner a final Application for Payment.

6.5.2 Should there prove to be outstanding obligations or liens to Sub-Contractors or Suppliers prior to Final Payment the Contractor shall defend and indemnify and hold harmless CCPRC from any and all claims and costs CCPRC may incur in satisfying, discharging or defending against any such claim, obligation or lien or any action brought or judgment recovered thereon and all costs

and expenses, including reasonable attorney's fees and other costs of such defense, incurred in connection therewith. Contractor authorizes CCPRC to interplead such Final Payments at Contractor's expense without recourse to CCPRC.

**ARTICLE 7**  
**PERFORMANCE AND PAYMENT BONDS**

- 7.1 The Owner requires performance and payment bonds from the Contractor in the amount of the Contract; the cost of the bonds to be paid by the Contractor.
- 7.2 Owner reserves the right to approve the surety company writing the bonds.
- 7.3 No payment will be due or made under this Contract until the required bonds are received and approved by the Owner. If the Contractor cannot furnish the required bonds in a form and amount acceptable to the Owner, the Contractor agrees that the Owner may anytime, at its option, declare this Contract null and void.
- 7.4 No change, alteration, modification or addition in the terms, covenants or conditions of this Contract shall in any way exonerate in whole or in part, any surety on any bond furnished by or on behalf of the Owner.
- 7.5 The above referenced 100% performance and payment bonds in form and with surety acceptable to Owner are a condition precedent to this Contract.

**ARTICLE 8**  
**INDEMNITY**

- 8.1 If in the execution or performance of this Contract, the Contractor shall have failed to perform the work in accordance with the terms, conditions, provisions, or covenants of this Contract or shall have violated any laws, rules, orders, regulations or ordinances applicable to the work hereunder, then the Contractor shall indemnify and save the Owner harmless from all damages, penalties or expenses (including attorneys' fees and costs) paid by the Owner or imposed upon the Owner as a result of any such failures or violations committed by the Contractor in the execution of performance of the work hereunder.
- 8.2 The Contractor agrees to indemnify the Owner against, and hold the Owner harmless from, any and all claims, demands, liabilities, losses, expenses, suits and actions (including attorneys' fees) for or on account of any injury to any person or any death at any time resulting from such injury, or any damage to any property, which may arise (or which may be alleged to have arisen) out of or in connection with the work covered by this Contract even though such injury, death or damage may be (or may be alleged to be) attributed in part to the negligence or other fault on the part of the Owner or his officers, agents, or employees. The Contractor specifically agrees to defend any and all suits, which may be brought against the Owner on account of any such injury, death or damage. The obligation of the Contractor's indemnifying and holding the Owner harmless shall not be enforceable if and only if it can be determined by judicial proceedings that the injury, death or damage complaint was attributable solely to the fault or negligence of the Owner or his officers, agents, or employees and not in any manner or in any part attributable to the Contractor. The Contractor agrees to reimburse the Owner for all sums which the Owner may pay or be compelled to pay in settlement of any claim hereunder, including any claims under the provisions of any Workmen's Compensation law or any plan for employee's benefits which the Owner may adopt. The Owner

may withhold from any payment otherwise due pursuant to this Contract such amount or amounts which may be reasonably necessary to protect it against liability for any personal injury, death or property damage resulting from the performance of work hereunder.

## **ARTICLE 9** **INSURANCE**

- 9.1** Unless otherwise provided herein, the Contractor shall have direct liability for the acts of his employees and agents.
- 9.2** See Insurance Requirements, attachment I in solicitation.
- 9.3** A certificate from the Contractor's insurance carrier, stating the amount and nature of the Contractor's insurance coverage shall be delivered to the Owner prior to the Contractor commencing work on the project.
- 9.4** "Notwithstanding anything to the contrary expressed elsewhere in this agreement, the Architect agrees that he is responsible for the cost of any rework resulting from any omission by, or error of, or failure of, the Architect to perform its duties, responsibilities, or obligations under this agreement."

## **ARTICLE 10** **TERMINATION**

- 10.1** Default. In the event the Contractor, or his agents, fails to properly man this project with sufficient skilled crews, or fails to supply qualified and specified materials, or fails in any way to diligently and expeditiously perform the work as directed by the Owner or as required by an agreed upon progress schedule, or fails to keep the progress of its work, or fails to pay its subcontractors, labor and/or material suppliers, or fails to comply with any applicable ordinance, law or regulation applicable to the project, or files a petition for voluntary bankruptcy or has a petition for bankruptcy filed against it, or fails to abide by or perform any and all terms, covenants, or conditions contained in this Contract, or should any work stoppage take place by this Contractor, his agents or his workmen, due to any strike, picket, walkout or boycott at any location at which the Owner does business, the Owner may, at its option, notify the Contractor, by telegram or by certified mail, of the Contractor's default and require Contractor to cure said default within seven (7) days. If the Owner determines that the Contractor has not cured the default within said seven (7) days, then the Owner may, at its option, without releasing or waiving its rights and remedies against the Contractor or the Contractor's surety and without prejudice to any other right it may be entitled to hereunder or by law, and after giving the Contractor seven (7) days additional written notice, terminate this Contract and take possession of all materials, tools, equipment and appliances of the Contractor and finish the Contractor's work by whatever means, methods, or agency the Owner may, in his sole discretion, select.
- 10.2** In the event that the Contractor is defaulted, then the Contractor and its surety shall be liable to CCPRC for all moneys expended and all of the costs, losses, damages and extra expense, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) incurred by the Owner incident to such completion of the Contractor's work. The surety and/or the Contractor agrees to pay promptly to the Owner, on demand, the full amount of such damages, including costs of collection, attorneys' fees, and interest thereon at the prejudgment rate.

- 10.3 Convenience. Additionally, Owner shall have the right to terminate this Contract, by written notice, without Contractor being at fault, for any cause or for its convenience (including without limitation on public funds), and require Contractor to immediately stop work. In such event, Owner shall pay Contractor for the work actually performed in an amount proportionate to this Contract sum. Owner shall not be liable to Contractor for any other costs, nor for prospective, lost or anticipated profits on work not performed. Any default termination subsequently determined to have been erroneous shall be treated as a termination for convenience.
- 10.4 Assignment: Effective as of any termination of the Contract, CCPRC may accept assignment of the Contractor's interest in those Subcontracts and Purchase Orders entered into by The Contractor prior to termination which CCPRC specifically requests by written notice. All Subcontracts and Purchase Orders shall provide that they are freely assignable by Contractor to CCPRC and its assignees. CCPRC shall be at liberty to negotiate with and engage any Subcontractors, Suppliers, or others that contractor dealt with prior to termination. All materials and equipment paid for as a consequence of termination shall become CCPRC's property.
- 10.5 In addition to or in lieu of termination for default, CCPRC may supplement and/or assume responsibility for any portion of the incomplete work and deduct the cost of such work from the contract balance upon 7 (seven) days written notice to the Contractor.

**ARTICLE 11**  
**DISPUTES**

- 11.1 All claims or disputes arising out of this Contract or the breach thereof shall be decided in accordance with Charleston County Park and Recreation Commissions Procurement Code, which is incorporated herein by reference. After the exhaustion of the remedies and procedures in the CCPRC Procurement Code, the parties agree any disputes under this agreement shall be resolved in Charleston County, South Carolina, in a court of competent jurisdiction (non-jury). The contractor, by entering into this contract, expressly waives any right to a jury trial.
- 11.2 Contractor shall carry on the Work and adhere to the Progress Schedule during and notwithstanding all disputes or disagreements with CCPRC. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and CCPRC may otherwise agree in writing.

**ARTICLE 12**  
**MISCELLANEOUS PROVISIONS**

**12.1 GOVERNING LAW**

12.1.1 This Agreement shall be governed by the laws of the State of South Carolina.

**12.2 CONTRACTOR'S GENERAL DUTIES AND STATUS**

12.2.1 The Contractor accepts the relationship of trust and confidence established between him and the Owner by this Agreement. He covenants with the Owner to furnish his best skill and judgment and to cooperate with the Owner in furthering the interests of the Owner. He agrees to furnish

efficient business administration and superintendence and to furnish at all times an adequate supply of workmen and materials, and to perform the work in the best way and in the most expeditious manner consistent with the interest of the Owner.

12.12.2 Contractor shall fully comply with CCPRC's SBE and Local Vendor Policies and requirements which are attached hereto and incorporated by reference (See Attachments F and G of the RFP).

### **12.3 SUPERVISION**

12.3.1 The Contractor shall supervise and direct the work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Contract.

12.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the work under a contract with the Contractor.

12.3.3 The Contractor shall at all times enforce strict discipline and good order among his employees and subcontractors and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him. The Contractor agrees that he will remove from the project site any employee of the Contractor or subcontractor whom the Owner deems to be incompetent, careless, insubordinate or otherwise objectionable. Contractor shall provide Owner with a list of all subcontractors and key personnel (project managers and superintendents) prior to performing work.

12.3.4 Any damage prior to final acceptance and payment for the Project shall be immediately corrected by Contractor at its expense. Inspection or supervision by Owner shall not relieve Contractor of its obligations under this Agreement. Contractor shall promptly perform any and all punch list work submitted to it by Owner.

### **12.4 CONTRACTOR'S WARRANTIES**

12.4.1 In addition to all implied warranties under South Carolina law, the Contractor represents and warrants:

- .1 That all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all work will be of a good and workmanlike quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- .2 That he is financially solvent, able to pay his debts as they mature, and possessed of sufficient working capital to complete this Agreement; that he is able to furnish the plant, tools, material, supplies, equipment and labor, and is experienced in and competent to perform the work contemplated by this Agreement, and that he is qualified to do business in the State of South Carolina.

- .3 That he holds a license, permit or other special license to perform the services included in this Agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license.

## 12.5 CONTRACTOR'S GUARANTEE OF WORK

- 12.5.1 Contractor agrees to promptly make good, without cost to Owner, any and all defects due to faulty workmanship and/or materials which may appear within the guarantee or warranty period established in the Contract Documents, and if no such period be stipulated in the Contract Documents, then such guarantee shall be for a period of one year from date of completion and acceptance of the project by Owner. This remedy is in addition to and does not supersede any and all other common law obligations or duties created by any implied warranties under South Carolina law. Contractor further agrees to execute any special guarantees as provided by the Contract Documents or required by law. Contractor shall require similar guarantees from all vendors and lower tier subcontractors.
- 12.5.2 Contractor shall pay for all changes to the work resulting from such defects in workmanship or materials and all expenses necessary to replace or repair the work, including that damaged or disturbed by making replacements or repairs. This guarantee is in addition to all other guarantees, warranties and rights contained in the Contract Documents.

## 12.6 ASSIGNMENTS AND CONTRACTS

- 12.6.1 The Contractor shall not assign this Contract or any amounts due or to become due thereunder without the written consent of the Owner. The Contractor shall not subcontract the whole of this Contract without the written consent of the Owner. The Contractor shall furnish to the Owner in writing:
  - .1 a designation of the Work to be performed with the bidders own forces and at a minimum, the successful bidder must perform at least thirty percent of the total scope of the work.
  - .2 names of the manufactures, products and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
  - .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the work.

## 12.7 SAFETY OF PERSONS AND PROPERTY

- 12.7.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.
- 12.7.2 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
  - .1 all employees on the work and all other persons who may be affected thereby;

- .2 all the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor; and
- .3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, site furnishings, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- .4 Contractor shall be responsible for: 1. Maintenance and protection of Work until final completion and acceptance, including, but not limited to, the storage of materials and equipment, erection of temporary structures and provisions for drainage as necessary to protect Work from injury, damage or loss. 2. Any injury, damage, or loss to Work resulting from the action of the elements or any other cause, irrespective of fault or negligence, accepting only such injury, damage, or loss as is caused solely by the negligence of willful misconduct of CCPRC. 3. Protection of its Work and materials and the Work and materials of its Subcontractors from damage or injury from the weather. Any portion of Work suffering injury, damage, or loss for which Contractor is responsible under 1, 2, or 3 above will be considered defective and shall be corrected or replaced without additional cost to CCPRC.

12.7.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

12.7.4 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss. The Contractor shall report, within three (3) days, to the Owner, any injury to the Contractor's employees at the site of the project.

12.7.5 The Contractor shall comply with the Williams-Steiger Occupational Safety and Health Act of 1970. The Contractor has the specific responsibility to comply with Chapter XIII of the Occupational Safety and Health Act of 1970 entitled "Safety and Health Regulations for Construction" and published in the Federal Register, Volume 36, Saturday, April 17, 1971. The Contractor shall hold Owner harmless against any and all claims that may arise because of failure on the part of the Contractor to comply with the Williams-Steiger Occupational Safety and Health Act of 1970 and the said "Safety and Health Regulations for Construction" issued pursuant thereto.

## **12.8 CLEANING UP**

12.8.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. The Contractor is solely responsible for removing his waste materials or rubbish from the project site. At the completion of the work he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials.

12.8.2 In the event of the Contractor's failure to so remove such waste materials or rubbish, and after 24 hours notice, the Owner shall have the right to remove same and charge the cost thereof against monthly progress payments or final payment due to or become due to the Contractor.

## **12.9 WAIVER**

12.9.1 No consent or waiver, express or implied, by either party to this Agreement to or of any breach or default by the other in the performance of any obligations hereunder, shall be deemed or construed to be a consent or waiver to or of any other breach or default by such party hereunder. Failure on the part of any party hereto to complain of any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder. Inspection by, payment by, or tentative approval or acceptance by the Owner or the failure to the Owner to perform any inspection hereunder, shall not constitute a final acceptance of the work or any part thereof and shall not release the Contractor of any of its obligations hereunder.

## **12.10 LAWS, PERMITS, FEES AND NOTICES**

12.10.1 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work under this Contract. The Contractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Contractor's work, the furnishing of which is required of the Owner by the Contract Documents.

12.10.2 Copies of any and all permits, licenses and certificates shall be delivered to the Owner as soon as they are obtained. Along with the request for final payment, the Contractor shall deliver the originals of such permits, licenses and certificates to the Owner.

12.10.3 The Contractor shall comply with federal, state and local tax laws, social security acts, unemployment compensation acts and workers' or workmen's compensation acts insofar as applicable to the performance of this Contract.

## **12.11 NON-DISCRIMINATION**

12.11.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin.

## **12.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

12.12.1 Prior to the submission of the Contractor's First Application for Payment, or within thirty (30) days after execution date of Contract, whichever is sooner, the Contractor shall submit to the Owner all required shop drawings and samples.

12.12.2 The approval by the Owner, his representative for any shop drawings, product data or other submittals by the Contractor shall not relieve Contractor of liability for any deviations from any contract requirements unless specifically called to the Owner's attention, in writing, and so acknowledged by the Owner in writing.

### **12.13 ARTISTIC EFFECT**

12.13.1 The Contractor agrees that all work shall be done subject to the final approval of the Owner or the Owner's authorized agent, and that the Owner's decision in matters relating to artistic effect shall be final, if within the terms of the Contract Documents.

### **12.14 TEMPORARY SITE FACILITIES AND STORED MATERIALS**

12.14.1 Temporary site facilities shall be coordinated with the Owner's project manager. Any storage facilities placed and sited with the approval of the Owner's project superintendent or project manager. Materials stored on site must not be removed from the site without the written consent of the Owner's project superintendent or project manager. The Contractor shall obtain prior approval from the Owner for all materials stored off site. All materials stored off site are the property and responsibility of the contractor until such time as it is brought to the site; the Owner is not responsible for or ownership of offsite stored materials unless stored in a bonded warehouse and properly insured.

### **12.15 TERMS**

12.15.1 Terms used in this Agreement which are defined in the Contract Documents shall have the meanings designated in those Contract Documents.

### **12.16 TESTS AND INSPECTION**

12.16.1 Where Contract Documents require the Work be inspected, tested, or approved, and when Contractor determines that the Work is Substantially Complete, he shall give timely notice, including written notice where required. However, should work requiring testing, inspection or approval not be in readiness, Contractor shall pay salaries, professional fees, travel and living expenses, as applicable, for persons inconvenienced by false notice.

**12.17** This Agreement represents the entire and integrated agreement between CCPRC and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both CCPRC and the Contractor.

**12.18** Nothing contained in this Agreement shall be deemed to create a contractual relationship with or cause of action in favor of a third party against CCPRC or the Contractor. The parties agree any disputes arising from this Agreement shall be resolved in a court of competent jurisdiction (non-jury trial) in Charleston, South Carolina. Contractor is not and has no authority to act as Owner's agent.

**12.19** The Contractor covenants and warrants that all work performed under this Contract shall be performed in a skillful, workmanlike and good manner and in accordance with the customs and standards of the industry with the highest degree of professional care. All plans prepared by the Contractor and drawings shall be adequate, accurate,

and fit for their intended purpose. The Contractor shall similarly be responsible for and bear all risk of all damages to persons or property that occurs as a consequence of its fault or negligence. The Contractor assumes all risk of loss and damage to all materials the Contractor provides under this Contract until delivery and acceptance of the entire work by CCPRC.

**12.20** CCPRC may undertake or award other contracts for additional work and the Contractor shall fully cooperate with such other contractors or Contractors as CCPRC employs and carefully fits into its own work with such additional work as may be directed by CCPRC. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor.

**12.21** Contractor may encounter and be removing Lead Based Paint. Only contractors with EPA certification or removal may work in and on these areas. Also, see Asbestos & LBP Study, Attachment J of solicitation.

All OSHA standards for work in and around hazardous materials are to be strictly followed (see Section XII of the RFP).

**12.22** The Contractor shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Contractor's promotional and professional materials. The Contractor's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Contractor in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall designate professional credit for work being performed by the Contractor and the name of the firm shall be included on the construction sign and in the promotional materials for the Project.

### **12.23 SITE**

(a) Offerors are required to inspect the site where the work will be performed, and as a minimum attend the mandatory pre bid meeting that will be held on site, to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(b) In no event will failure to inspect the site constitute grounds for a claim after award of the contract.

### **12.24 INTEGRITY OF UNIT PRICES**

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost.

### **12.25 SUMMARY OF AWARD**

CCPRC will evaluate offers for award purposes on the total price proposal as indicated in Section VII of the RFP for the basic requirement (items 1). CCPRC is not obligated to exercise the option(s).

The price will constitute 40 points of the evaluation of the proposal with 60 points of the proposal contractor qualifications.

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This Agreement entered into as of the day and year first written BELOW.

The two blocks below apply to the award action only.

AWARD. (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the agreement, which consists of (a) the solicitation and your offer, and (b) this agreement award. No further contractual document is necessary.

NEGOTIATED AGREEMENT (Contractor is required to sign this document and return original to CCPRC.) Contractor agrees to furnish and deliver all items AND perform all work, requisitions identified in this agreement and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this agreement award, (b) the solicitation, and (c) the clauses, representations, certifications and specifications incorporated by reference in or attached to this agreement.

-----AGREEMENT

OWNER

CONTRACTOR

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Tom O'Rourke, Executive Director  
Charleston County Park and  
Recreation Commission

\_\_\_\_\_ Date \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Company \_\_\_\_\_  
Phone \_\_\_\_\_  
Email \_\_\_\_\_