

**AGREEMENT
FOR THE DESIGN & CONSTRUCTION
of**

I-85 over Rocky Creek Bridge

Greenville, South Carolina

A DESIGN-BUILD PROJECT

**BETWEEN
SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AND
UNITED INFRASTRUCTURE GROUP, INC.**

_____ day of FEB 20 2020, 2020

Project ID P038111

Table of Contents

I.	CONTRACT DOCUMENTS	6
II.	PROJECT SCOPE	6
	A. SCOPE OF WORK	6
	B. DESIGN AND CONSTRUCTION RESPONSIBILITIES	6
	C. DESIGN CRITERIA	7
	D. DESIGN REVIEW	8
	E. MAINTENANCE OF TRAFFIC	9
	F. OWNERSHIP OF DOCUMENTS	10
	G. CONSTRUCTION CRITERIA	10
	H. PROJECT MANAGEMENT	11
	I. CONTROL OF THE WORK	11
	J. CONTRACT DELIVERABLES	12
III.	CONTRACT PRICE/CONTRACT PAYMENTS	13
	A. CONTRACT PRICE	13
	B. CONTRACT PRICE ADJUSTMENTS	13
	C. CONTRACT PAYMENTS	15
	D. RETAINAGE	17
IV.	CONTRACT TIME	18
	A. PROJECT SCHEDULE	18
	B. TIME ADJUSTMENTS	20
	C. OWNER'S RIGHT TO STOP WORK	21
	D. LIQUIDATED DAMAGES	21
V.	QUALITY ASSURANCE PROGRAM	21
	A. CONTRACTOR'S RESPONSIBILITIES	21
	B. SCDOT RESPONSIBILITIES	23
	C. CONTRACTOR'S OBLIGATION	24
VI.	INSURANCE AND BONDING	24
	A. INSURANCE	24
	B. BONDING	27
VII.	UTILITIES AND RAILROAD COORDINATION	28
VIII.	RIGHT OF WAY ACQUISITION	31
	A. GENERAL	31
	B. RIGHT OF WAY SERVICES	31
	C. ACQUISITION OF RIGHT-OF-WAY	35
IX.	PERMITS	36
X.	ENVIRONMENTAL COMPLIANCE	37
	A. COMPLIANCE WITH ENVIRONMENTAL COMMITMENTS	37
	B. PRECONSTRUCTION / PARTNERING CONFERENCE(S)	38
	C. PROTECTION OF ARCHEOLOGICAL AND PALEONTOLOGICAL REMAINS AND MATERIALS	38
	D. COMMUNITY AND PUBLIC RELATIONS PLAN	38
XI.	HAZARDOUS MATERIALS	39
XII.	DEMOLITION, REMOVAL & DISPOSAL OF STRUCTURES	41

I-85 over Rocky Creek Bridge
Greenville County

XIII. DIFFERING SITE CONDITIONS 41

XIV. FORCE MAJEURE 41

XV. WARRANTY 42

XVI. INDEMNITY..... 43

XVII. TERMINATION AND CANCELLATION 43

 A. TERMINATION FOR DEFAULT 43

 B. TERMINATION FOR CONVENIENCE 44

XVIII. DISADVANTAGED BUSINESS ENTERPRISES 45

XIX. ON-THE-JOB TRAINING REQUIREMENTS 45

XX. RECORD RETENTION 45

XXI. AS-BUILTS 46

XXII. ESCROW PROPOSAL DOCUMENTS 47

XXIII. DISPUTE RESOLUTION 47

XXIV. SCDOT'S AGENT 47

XXV. ASSIGNABILITY 47

XXVI. GENERAL PROVISIONS 48

CERTIFICATION OF CONTRACTOR 50

CERTIFICATION OF DEPARTMENT 51

DRUG-FREE WORKPLACE CERTIFICATION 52

LIST OF EXHIBITS

1. Cost Proposal Bid Form
2. Schedule of Values
3. Scope of Work
4. Project Design Criteria
 - 4a. Roadway Design Criteria
 - 4b. Structures Design Criteria
 - 4c. Pavement Design Criteria
 - 4d. Traffic Design Criteria
 - Part 1 – Signing and Pavement Marking
 - Part 2 – Work Zone Traffic Control
 - Part 3 – Intelligent Transportation System
 - 4e. Hydraulic Design Criteria
 - 4f. Geotechnical Design Criteria
 - 4g. Environmental Design Criteria
 - 4z. Project Design Deliverables
5. Special Provisions and Contract Requirements

I-85 over Rocky Creek Bridge
Greenville County

WHEREAS, the South Carolina Department of Transportation, as an agency of the State of South Carolina, wishes to improve the safety and operation of the state highway system I-85 over Rocky Creek Bridge in Greenville County. (hereinafter referred to as "the Project"); and

WHEREAS, the South Carolina Department of Transportation, as a servant of the people of the State of South Carolina, wishes to see this strategic project completed; and

WHEREAS, limitations imposed by traditional methods of designing, and constructing highways would mean that the Project could be completed only after an unacceptable delay; and

WHEREAS, the South Carolina Department of Transportation, working with the Federal Highway Administration (FHWA), has devised an innovative plan to allow the commencement and completion of the Project in a timely and cost-effective manner; and

WHEREAS, pursuant to Section 57-5-1625 SC Code of Law, the South Carolina Department of Transportation desires to award a highway construction contract using a Design / Build procedure; and

WHEREAS, after a competitive process, CONTRACTOR has been selected to participate in this venture by designing and building the Project; and

WHEREAS, the South Carolina Department of Transportation wishes to avail itself of and rely on CONTRACTOR's expertise and proven track record in designing and constructing such projects, on time and within budget; and

WHEREAS, CONTRACTOR wishes to provide that expertise and to participate in this venture for the good of the people of the State of South Carolina;

NOW THEREFORE, this Agreement is executed and made, effective as of the Effective Date as defined herein, between the SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION ("SCDOT") and UNITED INFRASTRUCTURE GROUP, INC. ("CONTRACTOR"). In consideration of the covenants hereinafter set forth, the parties hereto mutually agree as follows:

I. CONTRACT DOCUMENTS

The Contract shall be composed of this Agreement and all exhibits, SCDOT's Request for Proposals and all attachments, Request for Qualifications and all attachments, CONTRACTOR's Proposal and all attachments, and CONTRACTOR'S Qualifications and all attachments. In case of conflict, the order of precedence of the Contract documents shall be: (1) this Agreement; (2) Agreement Exhibits; (3) SCDOT Request for Proposals (RFP) document and Attachment B; (4) CONTRACTOR's Proposal and attachments; and (5) SCDOT Request for Qualifications (RFQ) and CONTRACTOR's Statement of Qualifications (SOQ). In the event of a conflict between the Project Design Criteria and Special Provisions identified in the Agreement Exhibits, the order of precedence shall be (1) the Project Design Criteria and (2) Special Provisions. The Project Information Package is provided for information only and is not a contract document. SCDOT makes not representations or warranties regarding the accuracy of the information contained therein.

II. PROJECT SCOPE

A. Scope of Work

CONTRACTOR shall furnish all services, labor, materials, equipment, supplies, tools, transportation, and coordination required to perform all design, preliminary engineering, surveying, geotechnical services, scheduling, permitting, right of way services, procurement, construction, utility coordination, demolition, material disposal and any other services necessary to perform the Project as defined in the Project Scope of Work made a part hereof as **EXHIBIT 3** and Project Design Criteria made a part hereof as **EXHIBIT 4**.

B. Design and Construction Responsibilities

1. CONTRACTOR, consistent with applicable state licensing laws, shall provide, through qualified South Carolina licensed design professionals employed by CONTRACTOR or procured from qualified, independent South Carolina licensed design consultants, the necessary design work and quality control, including, but not limited to, surveys, right of way services, roadway design, maintenance of traffic, geotechnical exploration and design, hydraulic analyses, storm water management, erosion control, superstructure design, and foundation and substructure design including seismic analyses for the preparation of the required drawings, specifications and other design submittals to permit CONTRACTOR to complete the work in accordance with the Contract.
2. CONTRACTOR shall provide through itself or subcontractors the necessary supervision, labor, inspection, testing, material, equipment, machinery, temporary utilities and other temporary facilities to permit performance of all demolition, earthwork, drainage, foundation work, maintenance of traffic, roadway work, structural work, excavation, erosion and sediment control work, field layout work, construction management and inspection, utility coordination and relocation, railroad coordination, CONTRACTOR quality control, maintenance, and all other

work necessary to complete construction of the Project in accordance with the Contract. CONTRACTOR shall perform all design and construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract. CONTRACTOR at all times shall exercise control over the means, methods, sequences and techniques of construction. CONTRACTOR's operations and construction methods shall comply with all applicable federal, state and local regulations with regard to worker safety, protection and health and protection of the environment and applicable permit requirements.

3. CONTRACTOR shall design and construct the project in accordance with the approved environmental document. Where new right of way is required to construct the Project, the CONTRACTOR shall design and construct the Project so as to minimize the additional rights of way needed while adhering to the design criteria herein. The acquisition of rights of way, including both cost and services to acquire, shall be the responsibility of the CONTRACTOR and shall be done in accordance with Article VIII of this Agreement. CONTRACTOR shall furnish the SCDOT a copy of any agreements for the use of additional properties not acquired as right of way that are used in conjunction with the construction of this Project. CONTRACTOR shall abide by the provisions of all applicable environmental permits, any conditions of individual right of way agreements, and all environmental commitments. The CONTRACTOR shall sign the Contractor Certification Form and this agreement will be made part of the contract.
4. It shall be the responsibility of CONTRACTOR to determine and comply with all applicable federal, state, and local laws in connection with the services set forth in this Contract. This obligation shall include, but not be limited to, procurement of all permits and licenses not obtained by SCDOT provided, however, that with respect to any permit or licenses that must be obtained in the name of SCDOT, CONTRACTOR shall perform all functions within its power to obtain the permit, including mitigation, and SCDOT will fully cooperate in this effort and perform any functions that must be performed by SCDOT. CONTRACTOR shall be responsible for payment of all charges, fees, and taxes, and for providing all notices necessary and incident to the performance of the Project as of the Effective Date of this Agreement. The Contract Price shall include fees related to the above obligations and if any fees are waived by the regulatory or governmental entity, then the amount of the fee waived shall be deducted from the Contract Price.

C. Design Criteria

It shall be the responsibility of CONTRACTOR to design all aspects of the Project in accordance with the contract documents. For the Project, CONTRACTOR shall provide a completed set of construction plans signed and sealed by a licensed professional engineer in South Carolina. CONTRACTOR shall be fully responsible for the accuracy of the design and compliance with specifications, standards and Project Criteria.

D. Design Review

1. Prior to the Preconstruction Meeting, CONTRACTOR shall provide a Draft Design Review Submittal Schedule to SCDOT. The Design Review Submittal Schedule shall include a Gantt chart of the submittal packages and will serve as the basis for reviewing the design and construction plans. The Design Review Submittal Schedule shall be updated and included with each submittal package. CONTRACTOR, CONTRACTOR'S design consultant, subcontractors, suppliers and SCDOT shall discuss the schedule and procedures for submitting design plans at the Preconstruction Meeting. CONTRACTOR, CONTRACTOR'S design consultant, subcontractors and suppliers shall not provide any design deliverables until the Design Review Submittal Schedule is approved by SCDOT.
2. A Design QC Plan shall be submitted for review and approval prior to any design or plan production. The plan shall clearly detail the processes and steps utilized by the designer and contractor to consistently produce quality designs and plans. The Design QC Plan shall be the first submittal listed in the Design Review Submittal Schedule.
3. All submittal packages shall be uploaded electronically to ProjectWise and an email shall be sent to SCDOT that verifies the contents of the upload. A complete submittal package shall be limited to one phase (ex. Preliminary/ROW/Final/Release For Construction (RFC)) of one segment or structure and include all design deliverables specified in Exhibit 4z. Prior to beginning any construction activities, permanent or temporary, the Traffic Management Plan and Conceptual Work Zone Traffic Control plans for the entire project shall be submitted by the CONTRACTOR and approved by SCDOT.
4. If approved by SCDOT, one Maintenance of Traffic submittal package, including but not limited to, an NPDES permit application and related plans, may be allowed to provide the opportunity to begin construction of non-permanent work items, such as clearing and grubbing, shoulder strengthening, minor demolition not adversely impacting traffic or operations, etc.
5. CONTRACTOR shall provide submittal packages as defined in Exhibit 4z. Prior to commencement of permanent construction activities, SCDOT will have the right, but not the obligation, to review and comment upon all submittal packages. SCDOT reserves the right to provide comments on the design or plans at any time when an issue is identified that is not compliant with the Project Design Criteria, the RFP or is an error or omission.
6. All documents of a submittal package must be uploaded to ProjectWise by 11:59PM for the review period to begin the next business day. No more than one new submittal package shall be uploaded to ProjectWise within a five business day period. SCDOT reserves the right to utilize Bluebeam Studio to facilitate design reviews between SCDOT and the CONTRACTOR. The initial review period for each submittal package shall be 15 business days. SCDOT review comments will

be sent to the CONTRACTOR, who shall respond within five business days and prior to subsequent phase submittals. SCDOT will then status CONTRACTOR'S responses and will provide additional comments, if warranted, within five business days. If any open comments remain after the initial 15 day review and subsequent 5 day review and comment periods, there will be no time constraint for the CONTRACTOR to respond. For all subsequent rounds of CONTRACTOR responses, SCDOT will status CONTRACTOR'S responses and will provide additional comments, if warranted, within five business days. Review comments for Preliminary, ROW, and Final phases of each segment or structure shall be closed before the associated RFC plans are authorized to be submitted and prior to commencement of construction, demolition or disposal activities.

7. CONTRACTOR shall revise design deliverables and upload to ProjectWise for verification to allow SCDOT to close review comments. Verification design deliverables are not required for preliminary phase submittal packages. Verification design deliverables are required to close SCDOT comments in order to approve ROW and authorize RFC phase submittal packages. CONTRACTOR shall clearly identify and describe any changes made to a verification design deliverable that are unrelated to SCDOT review comments. A complete verification package shall include revised contents for all design deliverables with open SCDOT review comments and be submitted along with CONTRACTOR responses. After comments are closed and before RFC submittal packages are uploaded to ProjectWise, any changes made to design deliverables may, at the sole discretion of SCDOT, require a new submittal package be provided and require adjustment to the CONTRACTOR's Design Review Submittal Schedule.
8. The review and comment process is fully discretionary; however, no review or comment nor any failure to review or comment shall operate to absolve CONTRACTOR of its responsibility to design and build the Project in accordance with the contract or to shift responsibility to SCDOT.
9. SCDOT reserves the right to reject any submittal package that is deficient or incomplete. SCDOT will provide a written notice, including cause for rejection, for any submittal package that does not demonstrate the work can be completed in accordance with the Contract. Rejected submittal packages must be revised to comply with the Contract. Revised submittal packages will be considered a new submittal package and reviewed as described above. Rejected submittal packages shall not in any way serve to extend the Construction Time.

E. Maintenance of Traffic

The SCDOT work zone mobility requirements found within the documents known as *Rule on Work Zone Safety and Mobility: The Policy for South Carolina Department of Transportation and Rule on Work Zone Safety and Mobility: Implementation, Maintenance, and Safety Guidelines* shall apply to this project. These requirements apply to the CONTRACTOR, all subcontractors, all SCDOT staff and designated representatives acting on behalf of the SCDOT performing duties with responsibilities

relative to a work zone, including but not limited to planning, project development, design, construction, and maintenance.

The CONTRACTOR shall design, develop, implement and maintain a set of coordinated strategies to manage the work zone impacts of the project designated as the Transportation Management Plan. These strategies will include a Temporary Traffic Control plan, a Transportation Operations component, and a Public Information component. The Policy and the anticipated work zone impacts of the project shall determine the level of detail, content, and scope of the TMP. The primary component, the Temporary Traffic Control plan shall address traffic control and safety throughout and adjacent to the project site. A secondary component, the Transportation Operations plan, will address management of traffic operations in the project site and all adjacent areas impacted by the project. The final component, the Public Information plan, addresses communications with the public and entities impacted by the project. The CONTRACTOR's Transportation Management Plan and its components shall comply with the requirements of this Agreement and subsequent Exhibits, Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD) latest edition, and SCDOT policies, standard specifications and all addendums to the standard specifications, the typical traffic control standard drawings for road construction, and procedures.

F. Ownership of Documents

Drawings, specifications, test data, inspection reports, QC documents, daily diaries and any other documents, including those in electronic form, prepared by CONTRACTOR or CONTRACTOR's consultants are "Project Documents". CONTRACTOR and CONTRACTOR's consultants shall be the owner of the Project Documents. Upon the Effective Date of this Agreement, CONTRACTOR grants SCDOT a nonexclusive license to reproduce the Project Documents for the purposes of, but not limited to, promoting, using, maintaining, upgrading, or adding to the Project. Upon completion of the Project or upon default by CONTRACTOR, CONTRACTOR shall provide copies of all Project Documents to SCDOT in the format designated by SCDOT.

G. Construction Criteria

CONTRACTOR shall construct the Project in accordance with all applicable Federal, State, and local statutes and regulations. All construction shall be performed in accordance with the following criteria, which are incorporated herein by reference and made a part hereof. The construction criteria are intended to be complementary and to describe and provide for a complete work. Where the following construction criteria conflict, the order of precedence shall be as listed below:

1. Approved Alternative Technical Concepts (ATC's) in CONTRACTOR's Response to RFP
2. **EXHIBIT 4** – Project Design Criteria
3. **EXHIBIT 5** – Special Provisions

4. Final Construction Plans provided by SCDOT
5. SCDOT Standard Drawings, effective as of the most recent Standard Highway Letting prior to the release of the Final RFP ([see Design Build Website - http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx](http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx))
6. SCDOT Supplemental Specifications and Supplemental Technical Specifications, effective as of the release of the Final RFP ([see Design Build Website - http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx](http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx))
7. SCDOT Standard Specifications for Highway Construction, effective as of the release of the Final RFP ([see Design Build Website - http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx](http://www.scdot.org/doing/constructionLetting_DesignBuild.aspx))
8. SCDOT Construction Manual, effective as of the release of the Final RFP
9. SCDOT Approval Sheets, Material Acceptance Policies and New Products Evaluation Summary (available on SCDOT internet website)

H. Project Management

1. CONTRACTOR shall be responsible for ensuring that the Project is constructed in conformance with the Contract, all referenced documents and specifications, and applicable laws and regulations.
2. CONTRACTOR shall provide project management services sufficient to supervise the activities of his own personnel and subcontractors. CONTRACTOR shall provide a sufficient number of persons on site, to the satisfaction of SCDOT, to provide for the construction management of the Project.
3. SCDOT will provide representatives assigned to the Project to monitor the construction and provide necessary coordination between SCDOT and CONTRACTOR. All costs for salary and equipment to maintain SCDOT employees will be provided by SCDOT at no expense to CONTRACTOR. SCDOT and FIWA, if applicable, representatives will have full and complete access to the Project, the work in progress, the "Daily Diaries", and to other technical documents and project records associated with design, construction, demolition, material disposal, materials, quality control, materials installation, and testing. SCDOT representatives will receive reasonable notice of and have the opportunity to participate in any meetings that may be held concerning the Project or the relationship between CONTRACTOR and their consultants and subcontractors when such meetings are associated with technical matters, progress, or quality of the Project. As used in this paragraph, "notice" shall require actual written notice to SCDOT's Agent.

I. Control of the Work

I-85 over Rocky Creek Bridge
Greenville County

1. CONTRACTOR shall determine the appropriate means, methods and scheduling necessary to complete the work timely and in accordance with all construction requirements. SCDOT and FHWA, if applicable, will have the right to review and inspect the work at any time.
2. If, at any time, SCDOT observes or has actual notice of any fault or defect in CONTRACTOR's performance of this Agreement, SCDOT will give CONTRACTOR prompt written notice reasonably detailing the nature of the fault or defect. SCDOT is not required to discover or to accept defective or faulty work. SCDOT's right to have defective or faulty work promptly corrected shall not be waived by any action of SCDOT.
3. SCDOT will have the authority to suspend the work, wholly or in part, for such periods, as SCDOT may deem necessary, due to CONTRACTOR's failure to meet the requirements of the Contract in the performance of the work.
4. No inspection, acceptance, payment, partial waiver, or any other action on the part of SCDOT will operate as a waiver of any portion of this Agreement or of any power reserved herein or any right to damages or other relief, including any warranty rights, except insofar as expressly waived by SCDOT in writing. SCDOT will not be precluded or estopped by anything contained herein from recovering from CONTRACTOR any overpayment as may be made to CONTRACTOR.

J. Contract Deliverables

CONTRACTOR shall submit deliverables including, but not limited to, the following as set forth in the CONTRACT. All deliverables shall contain proper references to both the Contract ID number and the appropriate Project ID number for that specific location. Deliverables noted below with an asterisk shall be included in the Design Review Submittal Schedule and follow Design Review procedures as outlined in Article II, Section D of the Agreement.

1. Contract Deliverable Matrix
2. All deliverables as specified in **EXHIBIT 4z***
3. CPM Schedule, as specified in **Article IV**
4. Design Review Submittal Schedule including Gantt Chart of Submittals*
5. Schedule of Values, as specified in **EXHIBIT 2**
6. Design QC Plan*
7. Construction QC Plan
8. Clearing and Grubbing Plan

9. CONTRACTOR's Erosion Control Plan
10. SCDHEC Notice of Intent (NOI) for Stormwater Discharges Covered Under SC NPDES Construction General Permit SCR160000) & Storm Water Pollutant Prevention Plan and signed Contractor Certification Form (SCDHEC 0437)
11. Wetland and Stream Mitigation
12. Crane Operator Documents
13. Community and Public Relations Plan, as specified in Article X and EXHIBIT 5
14. EEO, DBE, and OJT Requirements, as specified in Article XVIII & EXHIBIT 5
15. Right-of-Way documents, as specified in Article VIII
16. Escrow Proposal Documents
17. CONTRACTOR's Materials Certification
18. Railroad Coordination Documents & Insurance Certificates per EXHIBIT 6
19. HAZMAT surveys for structures not already surveyed, SCDHEC Notice of Demolition for RCE Signature
20. Utility Coordination Reports, including Utility Agreements, and Supporting Documentation
21. Right of Way Plats and Monuments (per Preconstruction Advisory Memorandum #8)
22. Shop Plans and Working Drawings
23. As-Built Plans

III. CONTRACT PRICE/CONTRACT PAYMENTS

A. Contract Price

The "Contract Price" shall be \$ 29,970,000.00. In consideration for the Contract Price, CONTRACTOR shall perform all of its responsibilities under the Contract. The Contract Price shall include all work identified in the Agreement and subsequent Exhibits and as identified in the Cost Proposal Bid Form – EXHIBIT 1.

B. Contract Price Adjustments

1. Allowable adjustments

I-85 over Rocky Creek Bridge
Greenville County

The Contract Price may be adjusted to reflect the direct costs, plus an additional amount not to exceed 10% of the direct costs for the combined total of reasonable overhead* and profit, associated with any of the following:

- a. Amount added or deducted as the result of a "Change" or "Construction Change Directive".
- b. Differing site condition as defined in Article XIII.
- c. Intentional or bad faith acts or omissions by SCDOT that unreasonably interfere with CONTRACTOR's performance and cause delay of work on the critical path of the Project.
- d. Changes in legal requirements or regulations that are effective subsequent to the date of submission of CONTRACTOR's response to the RFP.
- e. Discovery of hazardous materials not previously identified in Exhibit 4 Project Design Criteria and Attachment B as set forth in Article XI
- f. Discovery of archeological or paleontological sites not previously identified as noted in Article X.
- g. Premium right-of-way costs and second appraisals as set forth in Article VIII. Only the actual premium right-of-way and actual second appraisal cost will be reimbursed. No additional amount for overhead, profit, bonds and insurance will be considered for this item.

*Overhead: The operating expense of a business exclusive of direct cost labor and material.

Other than as provided above, the Contract Price shall not be increased for Contract Time extensions or delay damages. Contract Price adjustments shall be documented by Supplemental Agreement signed by both parties and shall be reflected immediately in the Schedule of Values. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this Agreement.

2. Changes

- a. A "Change" shall be any deviation or variation from the Project Scope or the Project Criteria. No Change shall be implemented without the express written approval of SCDOT. A "Change" may be an "Additive Change" or a "Deductive Change".
- b. SCDOT may initiate a change by advising CONTRACTOR in writing of the change. As soon thereafter as practicable, CONTRACTOR shall prepare and forward to SCDOT an estimate of cost or savings, and the impact to the schedule resulting from the change. SCDOT will advise CONTRACTOR in

writing of its approval or disapproval of the change via "Issue Paper". If SCDOT approves the change, CONTRACTOR shall perform the Services as changed.

3. Construction Change Directive

A Construction Change Directive is a written order from SCDOT directing a change prior to agreement with CONTRACTOR on adjustment, if any, to the Contract Price or Contract Time. If a price for the work cannot be agreed upon, CONTRACTOR shall perform the work under Force Account Procedures as outlined in Section 109.5 of SCDOT's Standard Specifications.

4. Direct Costs

For the purpose of a Contract Price Adjustment, "Direct Costs" shall be defined as:

- a. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- b. Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- c. Actual costs of machinery and equipment owned by CONTRACTOR or any affiliated or related entity exclusive of hand tools;
- d. Actual costs paid for rental of machinery and equipment exclusive of hand tools;
- e. Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes;
- f. Additional costs of supervision and field office personnel directly attributable to the change or event; and
- g. Costs incurred or fees paid for design work related to the change or event.

C. Contract Payments

1. Schedule of Values

Prior to execution of this Agreement, CONTRACTOR shall provide a Schedule of Values acceptable to SCDOT and work may not start until the Schedule of Values is approved by SCDOT. The Schedule of Values will serve as the basis for cost loading of the CPM Schedule. The CPM schedule shall include sufficient information to provide for monetary and quantitative tracking of the work by SCDOT. Updates to the cost-loaded CPM schedule will serve as the basis for progress payments requested by and made to CONTRACTOR. If the Contract

Price is adjusted, CONTRACTOR shall revise its Schedule of Values and the CPM Schedule to reflect the adjustment in the Contract Price. The revised Schedule of Values must be approved by SCDOT prior to the time for the subsequent request for a progress payment otherwise no progress payments will be made. The Schedule of Values shall be incorporated herein as **EXHIBIT 2**. The Schedule of Values should include Lump Sum items that will serve as measurement and payment for any item referred to in this Contract as a "contract unit bid price" item.

2. Mobilization

Mobilization shall not exceed 5% of the Total Contract Cost as shown in the Schedule of Values. Mobilization will be paid in two equal installments. The first will be paid in the progress payment immediately following Notice to Proceed, and the second will be paid at the start of construction.

3. Periodic Progress Payment Applications

No application for payment of the Contract Price shall be submitted until SCDOT gives a notice to proceed. Applications for payment of the Contract Price may be submitted once a month. Each application for payment of the Contract Price shall set forth, in accordance with the Schedule of Values and the cost-loaded CPM schedule, the percentage of all items comprising the work completed since CONTRACTOR's immediately prior request for payment. The application for payment of the Contract Price may also request payment for equipment and materials not yet incorporated into the Project, provided that (i) SCDOT is satisfied that the equipment and materials are suitably stored at either the Project or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, SCDOT will receive title to the equipment and materials free and clear of all liens and encumbrances.

4. Periodic Progress Payments

SCDOT will review each application for payment and respond within seven calendar days. Upon receipt of the Contractor Concurrence Form, SCDOT will pay CONTRACTOR the undisputed percentage for the Project completed during the period covered by the application for payment. SCDOT will make each payment within 21 calendar days of the receipt of the corresponding undisputed application for payment. Application for payment is defined as SCDOT's receipt of the Contractor Concurrence Form with the attached monthly progress estimate. In the event of a dispute over the quality of work or percentage of the Project completed, SCDOT's decision is controlling and final. Payment by SCDOT will not preclude or estop SCDOT from correcting any measurement, estimate, or certificate regarding the percentage completion of the Project, and future payments may be adjusted accordingly.

5. Prompt Payment of Subcontractors

CONTRACTOR shall comply with the requirements of the SCDOT Prompt Payment Clause Supplemental Specification.

6. Withholding of Payment

SCDOT may withhold all or part of any payment under the Contract for any of the reasons listed below. Any funds withheld will be released upon CONTRACTOR satisfactorily remedying the defect, fault, or failure and will be included in the next regularly schedule pay estimate. Payment will be subject to retainage if applicable.

- a. Defective work not remedied. Any such withholding, however, shall not exceed two times the reasonable cost of remedying the defective work. Defective work shall be defined as work or material not conforming to the requirements of the Contract.
- b. Reasonable evidence that the Work will not be Substantially Complete within the Construction Time as adjusted and that the unpaid balance of the Contract Price will not be adequate to cover Liquidated Damages for the actual unexcused delay;
- c. Failure to comply with the prompt payment provision of this Contract;
- d. Any fines or other charges to SCDOT due to CONTRACTOR's failure to comply with permit requirements or other regulations;
- e. Notice of cancellation of insurance;
- f. Failure to submit updated and approved CPM or Schedule of Values;
- g. Violation of QC plan requirements;
- h. Failure to follow specifications or procedures required by the Contract;
- i. Failure to comply with DBE, On-The-Job training, or Pre-Employment Training provisions;
- j. Failure to provide adequate work zone traffic control;
- k. Failure to provide adequate sediment and erosion control; or,
- l. Violation of any contract provisions.

D. Retainage

Provided the Project is proceeding satisfactorily, SCDOT will not withhold retainage. However, if at any time SCDOT determines that CONTRACTOR fails to meet contract terms or the Project is not proceeding satisfactorily, SCDOT may retain up to 10% of the Contract Price as retainage.

IV. CONTRACT TIME

A. Project Schedule

1. Time for Completion of Project: Time is of the essence. The Project shall be Substantially Complete within 1275 calendar days from Notice to Proceed. The Notice to Proceed shall be no later than 45 days from the effective date of the Agreement. Final Completion shall be reached as defined in paragraph 5 below.

Contract Time shall be the number of calendar days from effective date of agreement to Final Completion.

Construction Time is defined as calendar days from Notice to Proceed to Substantial Work Completion on the Project.

2. Substantial Completion: When CONTRACTOR believes that it has reached Substantial Completion, it shall notify SCDOT in writing. Substantial Completion is the point in the Project when the work has been constructed to the typical section in the plans over the entire length of the Project, including tie ins to adjacent projects or existing roads, all travel lanes are open to the public, all safety features are installed and are being properly maintained, no lanes will have to be closed to complete any remaining work, and all work is completed except for "Project Close-out Activities". "Project Close-out Activities" are defined as punch list items, site clean-up, demobilization, and final Project documentation, including but not limited to as-built plans.
3. Critical Path Method Schedule: CONTRACTOR shall prepare and maintain a schedule for the Project using the Critical Path Method of scheduling (hereinafter called "CPM Schedule"). Prepare a Level II CPM Schedule in accordance with this agreement and the SCDOT Supplemental Specifications with the following exceptions:
 - a. Submit to the SCDOT the initial baseline CPM schedule within 30 days from the Effective Date of this Agreement. No contract payment will be made to Contractor and no construction work may begin until a CPM baseline schedule is received and accepted by SCDOT. Update the baseline CPM schedule for monetary and quantitative tracking purposes as RFC plans are developed.
 - b. Cost-load the CPM schedule using the expenses identified in the schedule of values. Use the schedule of values to establish Expense Categories and assign to the correct activities.
 - c. Include submittal activities. Allow duration for these activities to include SCDOT review periods.
 - d. Reuse of deleted activity ID's from schedule update to schedule update is not allowed.

I-85 over Rocky Creek Bridge
Greenville County

- e. Failure to include any element of work or any activity including but not limited to utility relocation, right of way acquisition, and permitting will not relieve the CONTRACTOR from completing all work within the Construction Time at no additional time or cost to the SCDOT, notwithstanding the acceptance of the schedule by SCDOT.
 - f. Develop project specific calendars reflecting all seasonal restrictions included in this Agreement and non-work days. Address durations for weather within activity duration, not within the calendar.
 - g. Use only a Work Breakdown Structure (WBS) to organize schedule activities. At a minimum, breakout the design and construction phases. These two breakouts should have the same parent within the structure.
 - h. Submit monthly updates no later than 15 days following the most recent estimate period end date, whether or not an estimate was generated. Set the data date the same as the most recent estimate period end date.
 - i. If SCDOT determines any schedule submission is deficient, it will be returned to the CONTRACTOR. A corrected schedule shall be provided within 7 calendar days from the SCDOT's transmittal date.
 - j. The CONTRACTOR may plan for early completion; however, the schedule shall never reflect a completion date earlier than the original Substantial Completion date. SCDOT will not be liable in any way for CONTRACTOR's failure to complete the Project prior to the original Substantial Completion date. Any additional costs, including extended overhead incurred between CONTRACTOR's scheduled early completion date and the original Substantial Completion date, shall be the responsibility of the CONTRACTOR.
 - k. Include in each narrative a detailed listing of crews utilized on activities and their responsibilities. In lieu of this, the Contractor may request to submit a Resource Loaded CPM schedule.
4. Progress Review Meetings:
- a. Review Meetings shall be held between CONTRACTOR and SCDOT at least every 2 weeks. Periodic construction meetings shall be held by CONTRACTOR with its consultants and subcontractors to coordinate the work, update the schedule, provide information and resolve potential conflicts.
 - b. SCDOT and CONTRACTOR will hold a regular CPM Progress Meeting at which all principal parties are expected to attend. These meetings will be held the week before the application for payment is due so that job progress will coincide with the payment application. At this meeting, CONTRACTOR shall provide the most recent schedule with notations showing actual start dates, actual finish dates, and activity progress. If the schedule provided indicates an actual or potential delay to the completion of the Contract, CONTRACTOR

I-85 over Rocky Creek Bridge
Greenville County

shall provide a narrative identifying the problems, causes, the activities affected and describing the means and methods available to complete the Project by the Contract Time.

5. **Final Completion:** Final Completion shall be achieved within 180 calendar days of Substantial Completion as defined in this Agreement. When CONTRACTOR believes that all elements of its work on the Project, including all of the requirements of the Contract, have been completed, it shall notify SCDOT in writing. Within 30 days thereafter, SCDOT will acknowledge project completion or will advise CONTRACTOR in writing of any aspect of the Contract or the Project Scope that is incomplete or unsatisfactory. CONTRACTOR shall complete all corrective action within thirty (30) days after written notification of incomplete or unsatisfactory items. CONTRACTOR will notify SCDOT in writing upon completion of necessary corrective action. SCDOT will verify satisfactory completion of the corrective action in writing to CONTRACTOR. Upon verification, the Project shall be deemed to have achieved Final Completion.
6. **Inspection/Acceptance; No Waiver:** No inspection, acceptance, payment, partial waiver, or any other action on the part of SCDOT will operate as a waiver of any portion of this Agreement or of any power reserved herein or any right to damages or other relief, including any warranty rights, except insofar as expressly waived by SCDOT in writing. SCDOT will not be precluded or estopped by anything contained herein from recovering from CONTRACTOR any overpayment as may be made to CONTRACTOR.

B. Time Extensions

Time may be extended if there is a delay to the critical path of the Project caused by an event listed below. All requests for time extensions shall be made in writing to SCDOT within 20 days of the event causing the delay. All time extensions must be approved in writing by SCDOT. Time extensions for adverse weather shall not be allowed. Time extensions may be allowed for the following events that affect the critical path:

1. Force Majeure as that term is defined in this Agreement in Article XIV;
2. Changes or construction change directives;
3. Differing site conditions as defined under Article XIII;
4. Injunctions, lawsuits, or other efforts by individuals or groups that hinder, delay, or halt the progress of the Project, provided that such efforts are not premised on alleged wrongs or violations by CONTRACTOR or its subcontractors;
5. Interference with or delay of work on the critical path of the Project by SCDOT; however, CONTRACTOR shall not be entitled to a time extension if SCDOT's actions are necessitated by CONTRACTOR's actions, omissions, failure to perform quality work, or failure to comply with contract requirements;

6. Changes in the legal requirements or regulations which are effective subsequent to the date of this Agreement;
7. Discovery of hazardous materials not previously identified as set forth in Article XI;
8. Discovery of archeological or paleontological remains not previously identified as set forth in Article X; or
9. Adverse utility relocation impacts meeting the requirements set forth in Article VII.
10. Adverse Railroad coordination impacts as set forth in Article VII.
11. Adverse permit acquisition impacts as set forth in Article IX.

C. Owner's Right to Stop Work

SCDOT will have the authority to suspend the work, wholly or in part, for such periods, as SCDOT may deem necessary, due to CONTRACTOR's failure to meet the requirements of the Contract in the performance of the work. Such suspension of the work shall not constitute grounds for claims for damages, time extensions, or extra compensation.

D. Liquidated Damages

CONTRACTOR shall pay liquidated damages to SCDOT in the amount of \$7,500.00 for each day for which the project is not substantially complete, as defined in Article IV.

CONTRACTOR shall pay liquidated damages to SCDOT in the amount of \$2,500.00 for each day that Final Completion, as defined in Article IV, is not achieved.

The parties acknowledge, recognize and agree that because of the unique nature of the Project, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by SCDOT as a result of the CONTRACTOR's failure to complete the Project as specified in the Contract. Therefore, any sums payable under this provision are in the nature of liquidated damages, and not a penalty, and are fair and reasonable and such payment represent a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from such failure. Liquidated damages are SCDOT's sole remedy for delayed completion; however, liquidated damages do not apply to CONTRACTOR's liability for other contractual breaches, duties, or obligations.

V. QUALITY ASSURANCE PROGRAM

A. CONTRACTOR's Responsibilities

CONTRACTOR shall be responsible for the QUALITY CONTROL Portion of the Program to include the items listed below. Work shall not commence until CONTRACTOR has met these requirements.

1. Quality Control Plan: CONTRACTOR shall submit a Quality Control (QC) Plan that outlines how CONTRACTOR shall assure that the materials and work are in compliance with the contract documents. The initial plan shall be submitted to SCDOT for review and approval at least five business days prior to the beginning of any construction activity. The plan shall be updated as necessary prior to the start of any specific construction operation. The plan shall include a list of SCDOT certified personnel responsible for management and quality control of the Project, and define the authority of each individual. The plan shall also include how CONTRACTOR will monitor quality and deal with failing materials. The QC Plan shall include the QC testing and sampling frequencies and shall indicate the frequency at which the QC Manager will provide QC test results to SCDOT. CONTRACTOR shall include a summary of quantities to SCDOT for the purposes of meeting the minimum acceptance and independent assurance sampling and testing requirements for the Project.
2. Personnel: CONTRACTOR shall provide a sufficient number of SCDOT certified personnel to adequately control the work of the Project. Any personnel required to obtain samples or conduct material testing shall be SCDOT certified. CONTRACTOR shall provide SCDOT with copies of each individual's certifications for review and approval by SCDOT. Approved CONTRACTOR QC personnel shall be on the job at all times that permanent work items and materials are being incorporated into the project. CONTRACTOR's QC personnel shall not have any other project responsibilities.
3. CONTRACTOR Testing: Notwithstanding any required sampling and testing stipulated in Article II.G, the CONTRACTOR should establish additional sampling and testing to ensure that all workmanship and materials are in compliance with the contract requirements. Although not used for acceptance, QC testing and inspection shall ensure that quality has been incorporated into all elements of work prior to requesting acceptance testing and inspection. The QC Program should be sufficient in scope to remedy repeated discoveries of non-compliant work by those performing acceptance inspection and testing. Repeated observations of QC quality shortfalls shall be considered a breakdown of the QC program and shall be cause for investigation and corrective action prior to commencement of work areas affected. Corrective action may include the addition of new QC procedures, revision to existing QC procedures, re-training of QC personnel, removal and replacement of QC personnel, or other such actions which will restore the effectiveness of the QC program. All QC testing shall be performed in accordance with existing AASHTO, ASTM, or test methods used by SCDOT. The cost of these activities will be borne by CONTRACTOR.
4. Testing Laboratories: All testing laboratories used on the Project must be AASHTO certified and approved by SCDOT 30 days prior to beginning the portion

of work for which the laboratory will be performing the testing. Hot Mix Asphalt testing laboratories require SCDOT certification.

5. Mix Designs: Copies of all initial hot-mix asphalt mix designs and Portland Cement Concrete mix designs, along with supporting data, shall be submitted to SCDOT for review at least five business days prior to use. All hot-mix asphalt mix designs will be prepared by personnel certified in Mix Design Methods. Portland Cement Concrete mix designs will be prepared by a certified concrete technician or a Professional Engineer. The Portland Cement Concrete mix proportions given in the specifications are to be followed. CONTRACTOR shall design the mix to obtain the strength and water/cement ratios given in the specifications, and shall provide workability, air content, gradation and suitable set times as set forth in the Standard Specifications. The SCDOT will be notified of any revisions to CONTRACTOR's mix design. Copies of such revisions will be sent to SCDOT for review at least 10 business days prior to use.
6. Materials Certifications: CONTRACTOR's QC Manager shall submit all material certifications to SCDOT prior to the CONTRACTOR incorporating the material into the project.

B. SCDOT Responsibilities

SCDOT will be responsible for the QUALITY ACCEPTANCE portion of the program to include: conducting inspections, acceptance testing, independent assurance testing and final project material certification.

1. Acceptance Testing: SCDOT personnel assigned to the Project, or qualified personnel retained by SCDOT, will conduct sampling and testing, separate from CONTRACTOR's testing, at the frequencies set forth in SCDOT's Quality Acceptance Sampling and Testing Guide. This testing will be used by SCDOT to determine the acceptability of the materials. All sampling and testing will be in accordance with existing AASHTO, ASTM, or SC test methods used by SCDOT. The cost of these activities will be borne by SCDOT. CONTRACTOR's QC Manager is required to coordinate all activities closely with SCDOT to allow the necessary acceptance testing to be conducted prior to proceeding to the next operation. The disposition of failing materials must be approved by SCDOT.
2. Independent Assurance Testing: SCDOT will be responsible for conducting Independent Assurance Testing. Personnel performing these tests will be SCDOT employees or qualified persons retained by SCDOT. Persons performing these tests will not be involved in Acceptance Testing. This testing will be used to ensure that proper sampling and testing procedures are being followed, and that testing equipment is functioning properly. This testing will consist of observing sampling and testing by both SCDOT personnel performing Acceptance Testing and CONTRACTOR personnel performing Quality Control Testing, as well as taking split samples for the purposes of comparison testing. Independent Assurance Testing will be at an approximate frequency of one-tenth of the Acceptance Testing

frequency. Independent Assurance test results will not be used for acceptance. The cost of these activities will be borne by SCDOT.

3. Materials Certification: SCDOT will be responsible for preparing the Materials Certification as required by the FHWA on federally funded projects.

C. CONTRACTOR's Obligation

SCDOT's testing in no way relieves CONTRACTOR of its obligation to comply with the Contract requirements. All materials incorporated into the Project must meet or exceed contract requirements and specifications. Further, any testing by SCDOT will not relieve CONTRACTOR of any of its warranty obligations.

VI. INSURANCE AND BONDING

A. Insurance

1. CONTRACTOR shall purchase and maintain insurance using a company or companies that maintain an A.M. Best rating of not less than A-VII with coverage forms acceptable to SCDOT. The insurance described below shall be maintained uninterrupted for the duration of the Project, including warranty periods, and shall protect CONTRACTOR from claims set forth below which may arise out of or result from CONTRACTOR's operations under the Contract, whether such operations be performed by CONTRACTOR or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable:
 - a. Claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts;
 - b. Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
 - c. Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
 - d. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (2) by any other person;
 - e. Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
 - f. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

I-85 over Rocky Creek Bridge
Greenville County

CONTRACTOR shall obtain, or require the Lead Designer to obtain, Professional Liability insurance for this Project. Certificates of Insurance acceptable to SCDOT will be provided to SCDOT prior to execution of this Agreement. These certificates shall name SCDOT as an additional insured under the Commercial General Liability (CGL) arising out of both the on-going operations and completed operations of CONTRACTOR. Such additional insured coverage shall be endorsed to Contractor's CGL policy using ISO Additional Insured Endorsement form CG 2010 (10/01) and CG 2037 (10/01) or a substitute providing equivalent coverage, and included under the commercial umbrella. CONTRACTOR shall maintain continual additional insured status for SCDOT under the products-completed operations coverage for eight (8) years after Substantial Completion. CONTRACTOR shall also name SCDOT as additional insured under Business Automobile and Umbrella policies and reference the Project to which the certificate applies. The policies must contain a provision that coverage afforded will not be canceled until at least 30 days prior written notice has been given to SCDOT and that the policies cannot be cancelled for non-payment of premiums until at least 10 days prior written notice has been provided to SCDOT. Send Notice of Cancellations to Director of Construction Room 330, PO Box 191, Columbia, SC 29202. Make certain that the policies are endorsed to reflect this requirement. Verification of additional insured status shall be furnished to SCDOT by including a copy of the endorsements with the Certificate of Insurance. This insurance, including insurance provided under the commercial umbrella shall apply as primary and noncontributory insurance with respect to any other insurance or self-insurance programs, including any deductibles, afforded to, or maintained by, SCDOT. CONTRACTOR'S deductibles shall not exceed \$250,000 without written consent of the SCDOT and that the certificates show the deductible amounts. CONTRACTOR shall provide a notarized letter from a Certified Public Accountant showing that they have the financial ability to cover the amount of the deductible at the time of the execution of the agreement and for every year thereafter until the insurance obligation ends.

4. Limits shown in this provision are minimum acceptable limits and in no way limit available coverage to the additional insured. CONTRACTOR'S CGL and commercial umbrella policies shall contain no provision providing that the limits available to an additional insured are less than the limits available to the CONTRACTOR. SCDOT shall be given all the same rights and insurance coverage as CONTRACTOR.
5. There shall be no endorsements or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, underground property damage or work performed by contractors on behalf of SCDOT.
6. Hazardous Materials: If the CONTRACTOR is required to remove and haul any hazardous waste from the Project, or if the Project involves such similar environmental exposure, pollution liability coverage equivalent to that provided under the ISO Pollution Liability - Broadened Coverage for Covered Autos Endorsement (CA 99 48), shall be provided, and the Motor Carrier Act

Endorsement (MCS 90) shall be attached. Limits of pollution liability shall be not less than \$250,000 per occurrence \$1,000,000 annual aggregate. Coverage shall apply on an "occurrence form" basis, shall cover at a minimum bodily injury, property damage, defense costs and clean-up costs and be extended to include non-owned disposal sites and transportation coverage. This insurance shall remain in effect after acceptance by Owner for the time period required to satisfy the statute of limitations in South Carolina. However, if coverage is written on a "claims made form", then the Contractor's Pollution Liability coverage shall include a retroactive date that precedes the commencement of work under this Agreement. Such coverage shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs, including any deductibles, afforded to, or maintained by SCDOT. Pollution Liability policy must include contractual liability coverage.

7. Waiver of Subrogation: CONTRACTOR shall waive its rights against SCDOT, other additional insured parties, and their respective agents, officers, directors and employees for recovery of damages, or any other claims, to the extent these damages are covered by the CGL, business auto, pollution liability, workers compensation and employer's liability or commercial umbrella maintained pursuant to this section of the Agreement.
8. CONTRACTOR is not required to purchase Builder's Risk Insurance; however, CONTRACTOR must bear all risk normally covered by Builder's Risk Insurance. If CONTRACTOR purchases Builder's Risk Insurance, it shall be at its own cost.
9. After Final Completion of the work, CONTRACTOR shall maintain CGL, professional liability, and commercial umbrella coverage to include liability coverage for damage to insured's completed work equivalent to that provided under ISO CG 00 01 for eight years after substantial completion.
10. By execution of the contract, the CONTRACTOR accepts the responsibility to provide the liability insurance policies and endorsements as specified herein. Failure of SCDOT to identify a deficiency in the Certificate of Insurance submitted by the CONTRACTOR's insurance agent as evidence of the specified insurance or to request other evidence of full compliance with the liability insurance specified shall not be construed as a waiver of the CONTRACTOR's obligation to provide and maintain the required insurance for the duration of the contract. The CONTRACTOR shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The CONTRACTOR is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

B. Bonding

1. CONTRACTOR shall at the time of the execution of this Agreement, provide SCDOT the following bonds:

I-85 over Rocky Creek Bridge
Greenville County

- a. A Performance and Indemnity Bond from a surety or sureties satisfactory to SCDOT. The amount of bond shall be equal to the Contract Price.
- b. A Payment Bond from a surety or sureties satisfactory to SCDOT. The amount of bond shall be equal to the Contract Price.

These bonds shall be in accordance with the requirements of S.C. Code Ann. §57-5-1660, (1976 as amended) and S.C. Code Ann. §29-6-250 (2000). Bonds shall be issued by a surety company licensed in the State of South Carolina with an "A" minimum rating of performance as stated in the most current publication of "A.M. Best Key Rating Guide, Property Liability" and signed by the surety's agency or attorney-in-fact. Surety must be listed on the current U.S. Department of the Treasury Financial Management Service list of approved bonding companies as approved for an amount equal to or greater than the amount for which it obligates itself in the Bond. If surety qualifies by virtue of its Best's listing, the amount of the Bond may not exceed ten percent of policyholders' surplus as shown in the latest A.M. Best's Key Rating Guide.

2. CONTRACTOR shall also provide a warranty bond, acceptable to SCDOT, in the amount of \$500,000 to cover the warranty obligations of the contract.

VII. UTILITIES AND RAILROAD COORDINATION

- A. There are potential utility conflicts with SCDOT ITS Fiber and the ReWa sewer line especially at the interstate crossing.
- B. As part of the Project Scope, CONTRACTOR shall have the responsibility of coordinating the Project construction and demolition activities with all utilities that may be affected. CONTRACTOR shall be responsible for the cost of all utility coordination unless defined otherwise herein. If applicable, all temporary relocation costs as well as any other conflict avoidance measures shall be the responsibility of the CONTRACTOR. For those utilities that have prior rights SCDOT will be responsible for permanent relocation costs as defined by the Federal code. For those utilities where the CONTRACTOR determines that the SCDOT has prior rights, CONTRACTOR may exercise these rights and require the utility company to bear the costs of relocation. If there is a dispute over prior rights, SCDOT shall be responsible for resolving the dispute. SCDOT shall have final determination of the utility's prior rights.
- C. For those utilities requiring relocation, CONTRACTOR shall conform with SCDOT's "A Policy for Accommodating Utilities on Highway Rights of Way", the applicable State laws, and the Code of Federal Regulations, Title 23, Chapter 1, Subchapter G, part 645, subparts A and B. The CONTRACTOR is responsible for all costs associated with relocating utilities owned by SCDOT.
- D. The resolution of any conflicts between utility companies and the construction of the Project shall be the responsibility of the CONTRACTOR. If said utility companies interfere or fail to relocate conflicting utilities in a timely manner, SCDOT may, on an

I-85 over Rocky Creek Bridge
Greenville County

individual basis, consider a time extension for utility company delays when CONTRACTOR can demonstrate that appropriate coordination efforts have been made to expedite the utility relocation, and that the delay has a direct impact on the approved Critical Path. CONTRACTOR shall not be entitled to additional compensation for interference or delays in utility relocations. CONTRACTOR shall meet with the Department's Utilities Office within 30 days of the Notice to Proceed to gain a full understanding of what is required with each utility submittal.

- E. CONTRACTOR shall design the Project to avoid conflicts with utilities where possible, and minimize impacts where conflicts cannot be avoided. If there is a dispute between the CONTRACTOR and SCDOT as to whether a utility relocation is required, SCDOT shall have the final determination. Additional utility relocations desired by the CONTRACTOR for but not limited to construction staging, access or convenience, shall be the sole responsibility of CONTRACTOR and all associated costs shall be borne by the CONTRACTOR.
- F. CONTRACTOR shall initiate early coordination with all utilities and provide the utility companies with design plans for their use in developing Relocation Sketches as soon as the plans have reached a level of completeness adequate to allow the companies to fully understand the Project impacts. If a party other than the utility company prepares Relocation Sketches, there shall be a concurrence box on the plans where the utility company signs and accepts the Relocation Sketches as shown.
- G. CONTRACTOR shall be responsible for collecting and submitting to SCDOT the following from each utility company that is located within the project limits:
 - 1. **Relocation Sketches** including letter of "no cost" where the company does not have a prior right;
 - 2. **Utility Agreements** including documentation of prior rights, cost estimate and relocation plans where the company has a prior right; and/or
 - 3. **Letters of "no conflict"** where the company's facilities will not be impacted by the Project. Include location sketches on SCDOT plans confirming and certifying that facilities are not in conflict.
 - 4. **Encroachment Permits** for all relocations regardless of prior rights.
- II. CONTRACTOR shall assemble the information included in the Utility Agreements and Relocation Sketches in a final and complete form and in such a manner that the Department may approve the submittals with minimal review. CONTRACTOR shall ensure that there are no conflicts with the proposed highway improvements, or between each of the utility company's relocation plans. CONTRACTOR may not authorize the utility companies to begin their relocation work until authorized in writing by SCDOT. Any early authorization by CONTRACTOR shall be at the CONTRACTOR's risk.
- I. At the time that CONTRACTOR notifies SCDOT that CONTRACTOR deems the Project to have reached Final Completion, CONTRACTOR shall certify to SCDOT

I-85 over Rocky Creek Bridge
Greenville County

that all utilities have been identified and that those utilities with prior rights or other claims related to relocation or coordination with the Project have been relocated or their claims otherwise satisfied or will be satisfied by CONTRACTOR.

- J. CONTRACTOR shall accurately show the final location of all utilities on the as-built drawings for the Project. SCDOT reserves the right to request CADD files as needed.

If Railroad property is impacted by this project, the following provisions shall apply:

- K. Under the direction of and in coordination with SCDOT, the CONTRACTOR shall be responsible for all coordination with the involved Railroad Companies, including but not limited to, sending plans, meetings, correspondence, phone calls, writing/reviewing agreements, and etc. as may be necessary to secure the applicable executed railroad agreements, needed for the construction of the project, between the SCDOT and all involved Railroad Companies. All correspondence related to railroad agreements or conditions shall include the railroad file number and railroad milepost information. The CONTRACTOR shall be responsible for the cost of railroad coordination as defined herein.
- L. SCDOT will submit for approval, all required railroad agreements necessary for the Preliminary Engineering and Construction of the project. Upon approval, the SCDOT will submit the agreement to the Railroad Company for execution. The CONTRACTOR shall be responsible for assisting SCDOT in the development of the railroad agreement by providing requested information.
- M. The CONTRACTOR shall be responsible for all costs to the Railroad Company or Companies for services provided by the Railroad or the Railroad's Agent, as detailed in the executed Railroad Agreement between the SCDOT and the Railroad. This includes all expenses such as railroad flagging operations. The CONTRACTOR shall be responsible for all other costs associated with designing and constructing the project as described in the executed Railroad Agreement between the SCDOT and the Railroad Company. The CONTRACTOR shall include all costs associated with these requirements in the final bid price. Once a contract is executed, SCDOT shall administer invoicing for costs to the Railroad Company or Companies. Monies will be deducted from the CONTRACTOR's progress payments after payments are made to the Railroad Company.
- N. All design and construction activities in, adjacent to, over or under the railroad shall comply with all applicable Federal and State laws and standards, all terms identified in the Special Provisions for Protection of Railway Interests, and all terms of the final agreement executed with the Railroad Company.
- O. The CONTRACTOR shall be required to meet the Railroad's Insurance Requirements as specified in the Special Provisions for Protection of Railway Interests.
- P. The CONTRACTOR shall attend a mandatory meeting with the SCDOT's Utilities Office and Railroad Projects Office within 30 days after the Notice to Proceed. The

CONTRACTOR shall use the SCDOT approved agreement language and procedures, that will be provided in this meeting.

- Q. CONTRACTOR shall provide project specific information to SCDOT for inclusion into the agreements. The CONTRACTOR shall anticipate and include in the proposed schedule a minimum 90-day approval time-frame for all railroad agreements. If said Railroad Companies interfere or fail to provide information in a timely manner, SCDOT may, on an individual basis, consider a time extension for Railroad Company delays when CONTRACTOR can demonstrate that appropriate coordination efforts have been made to expedite the railroad coordination, and that the delay has a direct impact on the approved Critical Path. CONTRACTOR shall not be entitled to additional compensation for interference or delays related to railroad coordination.
- R. CONTRACTOR shall anticipate the need for a separate right-of-entry agreement between the CONTRACTOR and Railroad for surveys, borings, etc. The required PE Agreement, between SCDOT and Railroad, must be executed before Railroad will review or comment on any design questions or submittals from the CONTRACTOR. The Construction Agreement, between SCDOT and Railroad, must be executed before any construction activities can begin at the railroads.
- S. CONTRACTOR is advised that all utility relocations required within railroad right-of-way will require separate agreements between the affected utility company and the Railroad.

VIII. RIGHT OF WAY ACQUISITION

A. General

If necessary for CONTRACTOR's plan, CONTRACTOR shall acquire all rights of way outside of the above stated limits. Prior to starting construction activities, the CONTRACTOR shall prepare and obtain SCDOT approval of right-of-way certification(s).

B. Right of Way Services

CONTRACTOR, acting as an agent on behalf of the State of South Carolina, shall provide right of way services for the Project unless otherwise directed herein. CONTRACTOR shall use firm(s) from the SCDOT's current "on-call" list for right of way consultants, to provide right of way services. SCDOT's Right of Way office, through its assigned project manager and/or other designee, will retain final authority for approving just compensation, relocation benefits, administrative settlements, and legal settlements.

Right of way services shall include written appraisal, negotiation, acquisition, and relocation assistance services. CONTRACTOR shall be responsible for all costs related to these right of way services. CONTRACTOR will provide expert testimony and SCDOT will provide legal services necessary for any cases that are to be resolved by trial. Experts are defined as engineering and appraisal witnesses. SCDOT will

I-85 over Rocky Creek Bridge
Greenville County

designate a hearing officer to hear any relocation assistance appeals. SCDOT agrees to assist with any out of state relocation by persons displaced within the rights of way by arranging with such other state(s) for verification of the relocation assistance claim.

All offers of just compensation will be based on a written approved appraisal unless prior approval is given to CONTRACTOR by SCDOT. If SCDOT decides to utilize cost estimate offers, SCDOT will prepare the cost estimates and provide CONTRACTOR with the approved right of way cost estimate. SCDOT may allow offers to be made based on cost estimates on tracts estimated to be \$20,000 or less and determined by SCDOT to be non-complicated. In the event the cost estimate offer is rejected by the property owner, a written appraisal shall be required.

SCDOT will be responsible for reviewing and approving all appraisals and setting just compensation. Appraisals will be reviewed and released within 15 business days of receipt. If appraisal review cannot be completed within 15 business days because of deficiencies within the appraisal, the Rights of Way Consultant will be notified immediately of the appraisal status. SCDOT will provide appraisal reviews complying with the technical review guidelines of SCDOT's Right of Way Appraisal Manual. The review appraiser will be an SCDOT staff appraiser or a review appraiser from SCDOT's approved reviewer list. SCDOT will be responsible for review appraiser costs.

CONTRACTOR shall carry out the responsibilities as follows:

1. Acquire property in accordance with all Federal and State laws, guidelines, and regulations, including but not limited to the Uniform Relocation and Real Property Acquisition Act of 1970, as amended (the "Uniform Act"), the SCDOT Acquisition Manual, the SCDOT Appraisal Manual, SCDOT Relocation Manual, and the South Carolina Eminent Domain Procedure Act ("The Act"). CONTRACTOR shall not be entitled to an increase in the Contract Price for acquisition of borrow sources.
2. Submit procedures for handling right of way acquisitions and relocations to the SCDOT for approval prior to commencing right of way activities. These procedures are to show CONTRACTOR'S methods, including the appropriate steps and workflow required for appraisal, acquisition, and relocation. These procedures shall also include an appropriate time allowance for SCDOT's right of way project manager to approve just compensation, relocation benefits, administrative settlements, and legal court settlements.
3. CONTRACTOR shall be granted the authority to negotiate administrative settlements up to a set amount. This maximum administrative settlement amount for this Project shall be set by SCDOT's Right of Way office and provided in writing to the CONTRACTOR upon review and approval of the right of way procedures. SCDOT's right of way project manager will issue decisions on approval requests within three business days concerning just compensation, relocation benefits, administrative settlements, and legal settlements. This commitment is based on the procedures providing a reasonable and orderly

I-85 over Rocky Creek Bridge
Greenville County

workflow and the work being provided to SCDOT's right of way project manager as completed. Regardless of amount, CONTRACTOR shall send all administrative settlements to SCDOT's right of way project manager for final concurrence and signature.

4. Utilize SCDOT's right of way project tracking system and provide an electronic status update a minimum of twice per month or upon request by SCDOT's right of way project manager.
5. As part of the right of way acquisition and relocation procedures, include a right of way quality control plan to the SCDOT for review prior to commencing right of way activities. SCDOT standard forms and documents will be used to the extent possible.
6. Provide a toll free telephone number for landowners and displaced persons to call and an office near the Project which is located within the State of South Carolina for the duration of the right of way acquisition and relocation services for this Project.
7. Provide a current title certificate by a licensed South Carolina attorney for each parcel within 90 days of the date of closing or the date of filing of the Condemnation Notice.
8. Prior to preparing appraisals, CONTRACTOR shall determine the appraisal scope for each tract in conjunction with SCDOT's Chief Appraiser or designee. Appraisals shall be prepared in accordance with SCDOT's Right of Way Appraisal Manual. Appraisals shall be prepared by appraisers from SCDOT's approved list of active fee appraisers.
9. CONTRACTOR shall make direct payments of benefits to property owners for negotiated settlements, relocation benefits and payments to be deposited with the court that have been approved by SCDOT's right of way project manager. CONTRACTOR shall notify SCDOT monthly of all payments made.
10. Prepare and obtain execution of all documents conveying title. Prior to recording, CONTRACTOR shall present these documents to SCDOT's right of way project manager. The SCDOT's right of way project manager will review the documents and provide approval or further comments within five (5) business days. Upon approval, CONTRACTOR shall record documents conveying title to such properties to SCDOT with the Office of the Register of Deeds, and deliver all executed and recorded general warranty deeds to SCDOT. For all properties acquired in conjunction with the Project, title will be acquired in fee simple (except that SCDOT may, in its sole discretion and by written notification from SCDOT's right of way project manager, direct the acquisition of a right of way easement or permission, in lieu of fee simple title) and shall be conveyed to "The South Carolina Department of Transportation" by general warranty deed, free and clear of all liens and encumbrances except permitted encumbrances.

I-85 over Rocky Creek Bridge
Greenville County

11. Because these acquisitions are being made as agent on behalf of the State of South Carolina, SCDOT shall make the ultimate determination in each case as to whether settlement is appropriate or whether the filing of a condemnation action is necessary, taking into consideration the recommendations of the CONTRACTOR. When SCDOT authorizes the filing of a condemnation, CONTRACTOR shall prepare a Notice of Condemnation in the name of SCDOT, and submit it to SCDOT for SCDOT to file and serve appropriate condemnation documents and pleadings, and request priority status pursuant to S.C. Code Ann. Section 28-2-310(1976, as amended).
12. SCDOT shall prosecute condemnation proceedings to final judgment pursuant to the requirements of the South Carolina Eminent Domain Procedures Act. The procedure shall be by way of trial as provided by Section 28-2-240 of "The Act". SCDOT shall be responsible for obtaining legal representation and CONTRACTOR will be responsible for providing expert witnesses, necessary for condemnation actions, at its own expense. All settlements of condemnation cases shall be at SCDOT's sole discretion.
13. CONTRACTOR will be responsible for all contacts with landowners for rights of way or construction items and shall provide the following:
 - a. All Notices of Condemnation, issued pursuant to the authority granted, all titles of real estate and all right of way easements, recorded with the Office of the Register of Deeds or the Clerk of Court for the county or counties in which properties acquired through condemnation are located;
 - b. All drainage permissions, slope permissions, Right of Entry agreements, and releases;
 - c. A right of way agent's worksheet, or similar documentation substantially in the format of SCDOT Form No. 809, for each tract.
14. CONTRACTOR shall provide a right of way certification and SCDOT shall approve and sign that certification prior to CONTRACTOR entering the property. Only in exceptional circumstances will a certification be approved based on a right of entry. Certification may be on a tract-by-tract basis.
15. If after right of entry Certifications have been submitted there remains outstanding remaining tracts that have not been resolved, CONTRACTOR shall exercise care in its operations when working in proximity to adjacent developed properties, properties not yet acquired, and residences or businesses that are to be relocated. CONTRACTOR shall submit a plan to the SCDOT's right of way project manager for approval to:
 - a. Establish a clear zone adjacent to properties occupied by persons to be displaced in which construction equipment shall not be operated or parked.

I-85 over Rocky Creek Bridge
Greenville County

- b. Establish a clear zone for construction for properties occupied by persons to be displaced to prevent undue impacts or hardships,
 - c. Establish a method of protecting equipment from vandalism or unauthorized use,
 - d. Perform all burning in accordance with applicable laws and ordinances, with specific attention to SCDHEC's Bureau of Air Quality Control criteria which require compliance with the South Carolina Air Pollution Control laws, regulations, and standards as they concern the related work included in the Contract.
 - e. Provide reasonable and safe access to residences or businesses that are to be displaced until such time as the property is vacant, and
 - f. Observe the property rights of landowners of adjacent and/or yet to be acquired properties.
16. CONTRACTOR shall use reasonable care in determining whether there is reason to believe that property to be acquired for rights of way may contain concealed or hidden wastes or other materials or hazards requiring remedial action or treatment. When there is reason to believe that such materials may be present, CONTRACTOR shall take steps consistent with customary industry standards to investigate. SCDDOT shall be notified of the presence of such materials before an offer is made to acquire the property.
17. During the acquisition process and for a period of three years after final payment is made to CONTRACTOR for any phase of the work, all project documents and records not previously delivered to SCDDOT, including but not limited to design and engineering costs, construction costs, costs of acquisition of rights of way, and all documents and records necessary to determine compliance with the laws relating to the acquisition of rights of way and the costs of relocation of utilities, shall be maintained and made available to SCDDOT for inspection or audit.

C. Acquisition of Right-of-Way

1. The CONTRACTOR is responsible for verification of all information necessary for acquisition of the right of way and is responsible for all costs, excluding premium cost as defined below, associated with the purchase of the right of way.
2. Acquisition of any additional area (not right of way) desired by the CONTRACTOR for, but not limited to, construction staging, access or borrow pits, shall be the sole responsibility of CONTRACTOR, and any title or interest shall be secured in the name of the CONTRACTOR. CONTRACTOR shall provide SCDDOT the location and documentation for these additional areas. CONTRACTOR shall furnish SCDDOT a copy of any agreements, whether for purchase or lease, for the use of additional properties in conjunction with the construction of the Project. CONTRACTOR shall abide by the provisions of all

applicable environmental permits, any conditions of individual right of way agreements, and all environmental commitments. Any necessary permit modifications are the responsibility of the CONTRACTOR. CONTRACTOR is responsible for all costs associated with these additional areas, including premium right-of-way costs. If additional right-of-way is necessary beyond what has been evaluated in the NEPA documentation, CONTRACTOR shall be responsible for any re-evaluation of the approved Environmental Documents.

3. Right of way acquisition costs shall be defined as amounts paid for: (1) direct payments for ownership or other property rights, and (2) direct payments for eligible relocation expenses as provided for under the Uniform Act less premium right of way acquisition costs.
4. Premium right of way acquisition costs shall be the amount a jury award or a settlement that exceeds "Just compensation." "Just compensation" shall be defined as the value SCDOT approves for a parcel after the following procedure: CONTRACTOR shall submit its recommendation for just compensation based on appraisals/appraisal reviews or cost estimates which support the recommendation. If SCDOT's right of way project manager approves CONTRACTOR'S recommendations, that value becomes just compensation. If SCDOT's right of way project manager does not approve the recommendation, CONTRACTOR or SCDOT shall obtain another appraisal using an appraiser from the SCDOT's approved list and submit this appraisal to SCDOT. SCDOT shall be responsible for the cost of the second appraisal. SCDOT shall assign a value to the parcel which shall be deemed just compensation supported by the appraisals for the parcel.
5. CONTRACTOR shall be responsible for right of way service costs and right of way acquisition costs.
6. SCDOT shall be responsible for premium right of way costs except for those additional areas explained above.
7. Upon final completion of the project, if any right of way condemnation actions are still pending, CONTRACTOR shall be responsible for adequate security to cover its contractual obligation relating to right of way acquisition.

IX. PERMITS

A. The following permit was previously acquired and is available in Attachment B:

1. USACE Section 404 Permit (SAC-2012-00588)

The CONTRACTOR shall modify the existing permit to include impacts associated with construction of the project. Mitigation credits have been obtained as specified in Exhibit 4g.

B. All permits necessary for completion of this project shall be procured by the CONTRACTOR. The CONTRACTOR shall comply with all local, state, and federal

permitting requirements. Regarding any permit or license that must be obtained in the name of SCDOT, the CONTRACTOR shall perform all functions within its power to obtain the permit or license, and SCDOT shall fully cooperate in this effort and perform any functions that must be performed by SCDOT. The CONTRACTOR shall submit permit applications to SCDOT. SCDOT will submit the permit application to the appropriate permitting agency indicating that CONTRACTOR is acting as an agent for SCDOT. If said regulatory agencies fail to issue permits in a timely manner, SCDOT may, on an individual basis, consider a time extension for permit approval delays when CONTRACTOR can demonstrate that the application was submitted in a timely manner, all reasonable efforts have been made to expedite the permit approval, and that the delay has a direct impact on the Critical Path. CONTRACTOR shall not be entitled to additional compensation for delays in permit approval.

X. ENVIRONMENTAL COMPLIANCE

A. Compliance with Environmental Commitments

CONTRACTOR shall comply with all Environmental commitments and requirements including, but not limited to, the following:

1. Compliance with the provisions of all environmental permits applicable to the Project. A copy of the environmental document is included in **Attachment B**. Environmental Commitments are included in **Exhibit 4**.
2. Compliance with those stipulations and conditions under which SCDOT received approval of the Environmental Document(s) and any modifications resulting from a re-evaluation of the Document(s). If the CONTRACTOR elects to construct the Project in a manner that is not consistent with the assumptions in the SCDOT prepared environmental documents, the CONTRACTOR will be responsible for revising the environmental documents and provide any additional studies that may be required. All revisions will require SCDOT and FIWA, if applicable, approval prior to any right of way acquisition or construction activity;
3. Compliance with applicable laws and regulations relating to potential or actual hazardous materials that may be encountered in the course of carrying out this Agreement;
4. Carrying out all necessary social, economic, and environmental studies required by regulatory authorities in the course of construction;
5. Cost, preparation, revision, acquisition, compliance, and adherence to conditions of any permits required by federal, state, or local laws or regulations; The CONTRACTOR is responsible for any mitigation required by permits. Compensatory mitigation may be available through an approved mitigation bank or Permittee Responsible Mitigation (PRM) as define in EPA's 2008 Mitigation Rule; and

6. The resolution of any deviations from the contract documents, drawings or other information included in the environmental permits that would violate the intent or spirit of the permits. Any proposed changes within the permitted areas would need to be coordinated with SCDOT's Environmental Services Office.

B. Preconstruction / Partnering Conference(s)

CONTRACTOR shall conduct one (or more, if appropriate) pre-construction / partnering conference(s) prior to any construction activity to discuss environmental and permitting issues, which conference shall include all subcontractors, and, to the extent feasible, representatives from the U.S. Army Corps of Engineers, the S.C. Department of Health and Environmental Control Water Quality Division, the FHWA, CONTRACTOR, and SCDOT.

C. Protection of Archeological and Paleontological Remains and Materials

1. When archeological or paleontological remains are uncovered, CONTRACTOR shall immediately halt operations in the area of the discovery and notify SCDOT.
2. Archeological remains consist of any materials made or altered by man which remains from past historic or prehistoric times (i.e. older than 50 years) Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or not recent (i.e. older than 100 years) vessel ruins. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusks, bone, or entire skeletons.
3. SCDOT will have the authority to suspend the work for the purpose of preserving, documenting, and recovering the remains and materials of archeological and paleontological importance for the State. CONTRACTOR shall carry out all instructions of SCDOT for the protection of archeological or paleontological remains, including steps to protect the site from vandalism and unauthorized investigations, from accidental damage and from dangers such as heavy rainfall or runoff.
4. CONTRACTOR's Contract Time and or Contract Price shall be adjusted to the extent CONTRACTOR's cost and/or time of performance have been adversely impacted by the presence of archeological or paleontological remains.

D. Community and Public Relations Plan

The CONTRACTOR shall provide to SCDOT for review and written approval a Community Relations Plan as part of the Project in accordance with Exhibit 5. The Community Relations Plan shall describe how the CONTRACTOR will actively promote good relationships with local elected officials, the news media, and the community at large. All costs associated with community relations will be included in the Total Project Cost. SCDOT will expect the CONTRACTOR to maintain positive communications with the local community (including public meetings as necessary).

the adjacent property owners, and local businesses. The Community Relations Plan shall be submitted within 45 calendar days after NTP.

XI. HAZARDOUS MATERIALS

- A.** The CONTRACTOR is referred, in addition to this Article, to Exhibit 4, Project Design Criteria and Attachment B for information and requirements regarding Hazardous Materials inspections and other environmental documentation regarding Hazardous Materials. The CONTRACTOR shall be responsible for handling, storage, remediation, and disposal of any materials, wastes, substances and chemicals deemed to be a solid waste or hazardous waste under applicable state or federal law, (hereinafter "Hazardous Materials") encountered at the Site which were identified in the Hazardous Materials inspections or other environmental documentation regarding Hazardous Materials provided in Exhibit 4, Project Design Criteria and Attachment B and the cost of these activities shall be included in the Contract Price.
- B.** If the CONTRACTOR's plan includes demolition, removal, or disposal of existing structures not previously inspected by SCDOT, the Contractor is required to perform lead-based paint and asbestos inspections on the existing structures prior to performing those activities. The cost of the lead-based paint and asbestos inspections shall be included in the Contract Price. Removal of lead-based paint and asbestos and lead-based paint and asbestos containing materials identified by inspections shall be by a qualified independent firm retained by the Department or by negotiating a construction change directive with the CONTRACTOR as outlined in the procedures in Article XI.F.
- C.** If the CONTRACTOR's plan includes demolition, removal, or disposal of existing structures previously surveyed by SCDOT, but the asbestos inspection reports have expired, the CONTRACTOR is required to perform new asbestos inspections on the existing structures prior to performing those activities. The cost of the asbestos inspections shall be included in the Contract Price. The cost of removal, handling, storage, remediation, and disposal of asbestos containing materials identified in the expired inspection reports shall be included in the Contract Price.
- D.** A copy of the lead-based paint and asbestos inspection reports and the notification of demolition or renovation forms must be submitted to SCDHEC at least ten (10) working days prior to demolition of an existing structure. Prior to submitting the reports and forms to SCDHEC, the CONTRACTOR shall obtain the RCI's signature. The CONTRACTOR is responsible for obtaining all required permits to proceed with the work.
- E.** The CONTRACTOR is responsible for all necessary containment, removal, transportation, and disposal of the subsurface and surface Hazardous Materials identified in inspections or other environmental documentation provided in Attachment B in compliance with all applicable Federal (EPA, OSHA & DOT) and State (SCDHEC & SCDOT) and local (County and Municipality) requirements for Hazardous Materials

I-85 over Rocky Creek Bridge
Greenville County

and worker health and safety. The CONTRACTOR is responsible for obtaining all required permits to proceed with the work.

F. Unexpected Hazardous Materials – Upon encountering any unexpected Hazardous Materials, the CONTRACTOR shall follow the procedures as described below:

1. CONTRACTOR shall stop Work immediately in the affected area and duly notify SCDOT and, if required by state or federal law, all government or quasi-government entities with jurisdiction over the Project or site.
2. Upon receiving notice of the presence of Hazardous Materials, SCDOT will take necessary measures required to verify that the Hazardous Materials are remediated or rendered harmless. Such necessary measures will include SCDOT either (i) retaining qualified independent firm or (ii) negotiating a construction change directive with CONTRACTOR.
3. CONTRACTOR shall resume Work at the affected area of the Project only after written notice from SCDOT that the (i) Hazardous Materials have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project.
4. CONTRACTOR's Contract Price and/or Contract Time shall be adjusted to the extent CONTRACTOR's cost and/or time of performance has been adversely impacted by the presence of Hazardous Materials.
5. If a construction change directive is negotiated, the CONTRACTOR shall comply with Article XI.E.

G. For purposes of this Project, the Hazardous Material Generator shall be listed as "SCDOT" of any and all Hazardous Materials and/or hazardous wastes associated with work on the Project, with the exception that CONTRACTOR shall be the generator for all Hazardous Materials it, its consultants, subconsultants, subcontractors or suppliers, brings on to the Project or that is brought to the Project by them and subsequently is caused to be released on the Project by the CONTRACTOR, CONTRACTOR's design consultants, subcontractors and suppliers. The foregoing shall not preclude or limit any rights or remedies that SCDOT may have against third parties and/or prior owners, lessees, licensees and occupants of the Project's right of way.

II. SCDOT is not responsible for Hazardous Materials actually brought to the Project by CONTRACTOR, CONTRACTOR's design consultants, subcontractors and suppliers or anyone for whose acts they may be or are liable. SCDOT is not responsible for negligent or willful acts by CONTRACTOR, CONTRACTOR's design consultants, subcontractors and suppliers or anyone for whose acts they may be or are liable relating to Hazardous Materials found at the site. CONTRACTOR shall indemnify, defend and hold harmless SCDOT and SCDOT's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorney's fees and expenses arising out of or resulting solely from those Hazardous Materials

actually brought to the Project or negligent or willful acts relating to Hazardous Materials, or both by CONTRACTOR, CONTRACTOR's design consultants, subcontractors and suppliers or anyone for whose acts they may be or are liable.

XII. DEMOLITION, REMOVAL & DISPOSAL OF STRUCTURES

CONTRACTOR shall be responsible for the demolition, removal and disposal of all structures and their appurtenances within SCDOT Right of Way necessary for the completion of the Project, to include those portions which may extend outside the right of way, but were purchased as a part of the acquisition process. Structures shall include the bridges identified in the scope of work and all buildings acquired for the Project. All necessary permitting shall comply with Articles II.B.4 and IX of the Contract. Handling and disposal of Hazardous Materials shall be in accordance with Article XI of the Contract. Before demolition of the structures, the CONTRACTOR shall complete and submit a Notification of Demolition and Renovation form to the South Carolina Department of Health and Environmental Control.

XIII. DIFFERING SITE CONDITIONS

- A. "Differing Site Conditions" are defined as concealed or latent physical conditions at the Site that (i) materially differ from the conditions reasonably assumed to exist based on the information identified in the RFP, this Agreement and its Exhibits (Type 1); or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the work (Type 2). For this Project, Type 1 is the responsibility of the CONTRACTOR and no additional time or cost will be allowed
- B. Upon encountering a Type 2 Differing Site Condition, CONTRACTOR shall provide prompt written notice to SCDOT of such condition, which notice shall not be later than 20 days after such condition has been encountered. CONTRACTOR shall provide such notice before the Type 2 Differing Site Condition has been substantially disturbed or altered and before any work is performed.
- C. Upon written notification, SCDOT will investigate the conditions and if it is determined that the conditions differ materially and cause an increase or decrease in the cost or time required for performance of the work, the Contract will be adjusted. No contract adjustment that results in a benefit to CONTRACTOR will be allowed unless CONTRACTOR has provided the required written notice.
- D. CONTRACTOR is responsible for reviewing all available information, visiting the Project site, and making any additional subsurface explorations or soil tests that the CONTRACTOR may deem necessary.

XIV. FORCE MAJEURE

Delays or failures of performance shall not constitute breach of the Agreement if and to the extent such delays or failures of performance are caused by severe and not reasonably foreseeable occurrences beyond the control of SCDOT or CONTRACTOR, including, but

not limited to: Acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority other than SCDOT or a party in privity with it; a change in law directly and substantially affecting performance of the Project; Acts of War; rebellion or sabotage or damages resulting there from; fires, floods, explosions, or extraordinary accidents; riots or strikes or other concerted acts of workman, whether direct or indirect, or any similar causes, which are not within the control of SCDOT or CONTRACTOR respectively, and which by the exercise of reasonable diligence, SCDOT or CONTRACTOR are unable to prevent. Any expense attributable to such occurrence shall not entitle CONTRACTOR to an adjustment in the Contract Price. Any critical path delay attributable to such an occurrence shall be added to the Contract Time.

XV. WARRANTY

- A. CONTRACTOR warrants that it will perform all services in accordance with the standards of care and diligence normally practiced by recognized engineering and construction firms in performing services and obligations of a similar nature. CONTRACTOR warrants that all materials and equipment furnished shall be of good quality and new unless otherwise authorized by SCDOT and that the construction shall conform to the Contract requirements. CONTRACTOR agrees to promptly correct, at its own expense, defects or deficiencies in materials and workmanship that appear prior to and during a period of three years after Final Completion of the Project. This shall include all plant-produced materials (i.e. asphalt, concrete, etc.). CONTRACTOR shall not be responsible for damages caused by SCDOT's failure to provide timely notification of potentially damaged or defective work of which SCDOT had actual knowledge. CONTRACTOR shall properly perform, at the written request of SCDOT made at any time within the warranty period after Final Completion of the Project as defined in Article IV.A.5, all steps necessary to satisfy the foregoing warranty and correct any element of the Project or the services that is defective or does not reflect such standards of care and diligence. The cost of such corrective services shall be CONTRACTOR's responsibility.
- B. CONTRACTOR further warrants the performance of all bridge components on all structures for three years from Final Completion of the Project. If a component fails to perform properly for any reason, including but not limited to normal wear and tear, the CONTRACTOR shall replace the failed component at no cost to SCDOT.
- C. The warranty periods begin at Final Completion of the Project. CONTRACTOR shall immediately abate any warranty deficiency that poses an unsafe condition to the public; otherwise deficiencies shall be corrected no later than 30 days from the determination of corrective action. In the event CONTRACTOR, after notice, fails to immediately abate the deficiency or fails to make correction within the prescribed 30 days, SCDOT may have the deficiency corrected. All costs associated with such correction by SCDOT shall be the responsibility of the CONTRACTOR and his Surety. With respect to any component that is repaired or replaced pursuant to this warranty, the warranty period of that component shall be the longer of one year from repair or replacement of the component or the remainder of the original warranty period.

D. CONTRACTOR shall take all steps necessary to transfer to SCDOT any manufacturer's or other third-party's warranties of any materials or other services used in the construction of the Project.

E. These warranties are in addition to all warranties implied by law.

XVI. INDEMNITY

A. CONTRACTOR shall indemnify, defend and hold SCDOT harmless from any and all claims, liabilities and causes of action for any fines or penalties imposed on SCDOT by any state or federal agency because of violation by CONTRACTOR or any of its subcontractors of any state or federal law or regulation.

B. CONTRACTOR shall indemnify, defend and hold SCDOT harmless from any and all claims, liabilities and causes of action arising out of or resulting from, in whole or in part, the performance of the Work, negligence or recklessness of CONTRACTOR or its agents, consultants and/or subcontractors.

XVII. TERMINATION AND CANCELLATION

A. Termination for Default

1. CONTRACTOR shall be in default of the Contract if it:

- a. Fails to supply a sufficient number of properly skilled workmen, tools, materials and equipment to assure the prompt completion of the work;
- b. Fails to perform work in accordance with contract requirements and/or refuses to remove or replace rejected materials or unacceptable work;
- c. Discontinues the prosecution of the work;
- d. Fails to resume work that has been discontinued within a reasonable time after notice to do so;
- e. Becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency;
- f. Allows any final judgment to remain unsatisfied for a period of 15 days;
- g. Makes an assignment for the benefit of creditors;
- h. Fails to maintain the Project schedule;
- i. Commits a substantial breach of the Contract;
- j. Provides false or misleading information in the procurement process; or

- k. For any other cause whatsoever, fails to carry on the work in an acceptable manner.
2. If CONTRACTOR does not commence work to cure the default within 15 days after receipt of written notice from SCDOT and thereafter diligently prosecute work to completion within a reasonable time as determined by SCDOT, then SCDOT will have full power and authority to terminate CONTRACTOR for default and shall provide written notification of the termination to CONTRACTOR and Surety.
3. Upon termination for default, Surety will have the right to complete the contract and shall be given 30 days, or longer in SCDOT's discretion, in which to resume the work. This procedure shall not in any way serve to extend the Contract Time. All charges incident to negotiation with the Surety and arranging for work to be resumed, including attorney's fees, shall be charged against CONTRACTOR or Surety as part of the cost of the work.
4. If Surety refuses to complete the work or fails to take over the work promptly as provided by this Agreement, then SCDOT may appropriate or use any or all materials and equipment on the job site as may be suitable and acceptable and may enter into an agreement for the completion of the Contract. All costs and charges incurred by SCDOT together with the cost of completing the work under the Contract will be deducted from any monies due or which may become due CONTRACTOR. If such expense exceeds the sum which would have been payable under the Contract, CONTRACTOR and Surety shall be liable and shall pay to SCDOT the amount of such excess.
5. Upon termination for default, all Project Documents, as defined in Article II.F, shall be surrendered forthwith by CONTRACTOR to SCDOT. SCDOT will be authorized to use the Project documents for the sole purpose of promoting, completing, using, maintaining, upgrading or adding to the Project. This authorization includes allowing design professionals to make changes, corrections, or additions to the Project documents for these purposes.
6. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.

B. Termination for Convenience

1. SCDOT reserves the right to cancel the Work upon 10 days written notice to CONTRACTOR. Should the Work be so canceled by SCDOT for convenience, CONTRACTOR shall be paid for the value of the Work, based upon the Schedule of Values, performed to the date of cancellation and demobilization together with any cancellation charges by vendors and subcontractors. CONTRACTOR shall also be entitled to the cost of securing the work, provided such cost is approved by SCDOT. In no event, shall CONTRACTOR recover any amount for work not

performed. The total payment to CONTRACTOR pursuant to such a cancellation shall not exceed the Contract Price.

2. Termination of all or a portion of the Contract shall not relieve CONTRACTOR of any responsibility it would otherwise have for the work completed, or for any claims arising from that work.
3. Upon such termination, all Project Documents, as defined in Article II.F, shall be surrendered forthwith by CONTRACTOR to SCDOT. SCDOT will be authorized to use the Project documents for the sole purpose of promoting, completing, using, maintaining, upgrading or adding to the Project. This authorization includes allowing design professionals to make changes, corrections, or additions to the Project documents for these purposes.

XVIII. DISADVANTAGED BUSINESS ENTERPRISES

- A. DBE Goal - CONTRACTOR shall comply with the DBE goal and the requirements of the SCDOT DBE – Design Build Special Provision, attached hereto in EXHIBIT 5, and the SCDOT DBE Supplemental Specification.
- B. SCDOT'S Right to Audit - SCDOT will have the right to audit all documentation regarding DBE participation in the Project.

XIX. ON-THE-JOB TRAINING REQUIREMENTS

There is an On-The-Job Training requirement for this Project. The CONTRACTOR shall comply with the requirements, including the number of persons to be trained, provided in the Specific Equal Employment Opportunity Responsibilities Training Special Provisions within the Federal Aid Supplemental Specifications found in Exhibit 5. The CONTRACTOR shall submit its plan for On-the-Job Training to SCDOT for written approval prior to commencing construction activities.

XX. RECORD RETENTION

- A. CONTRACTOR shall maintain the following documents for a period of three years or a period equal to the warranty period, whichever is longer, after Final Completion of the Project:
 1. All CONTRACTOR samples and test reports;
 2. Daily Diaries and any other documents required to be retained in accordance with the Quality Control Plan.
- B. During the retention period, SCDOT will be granted access to those documents upon reasonable notice. At any time during the retention period, SCDOT will have the option of taking custody of the documents. CONTRACTOR shall obtain a written release from SCDOT prior to destroying the records after the retention period.

XXI. AS-BUILTS

- A. In addition to those documents set forth elsewhere in this Agreement, CONTRACTOR shall provide to SCDOT prior to Final Completion, complete sets of as-built drawings (See Article XXI.D for details). As-built plans consist of the final version of the design plan CADD drawings that incorporate all changes, including any adjustments, relocations, additions and deletions that occurred during construction. CONTRACTOR shall certify that the as-built plans are a true and correct representation of the work as constructed. If any design changes occur during construction, the plan sheets (or any other "job site record document" with a seal) revised after award of contract shall include a complete accounting and detail of the revisions and design changes. The P.E. responsible for the revisions shall seal each altered plan sheet (or any other "job site record document" with a seal). This documented information is to be part of the As-Built Plan requirements. The CONTRACTOR shall develop as-built plans in accordance with the SCDOT Manual of Instructions for the Preparation of As-Built Plans, edition effective as of the release of the Final RFP.
- B. Information regarding major revisions to the plans shall be noted in a revision box on the plans. The information listed in the revision box shall include: the initiator of the revision, a brief explanation of the nature of the revision, and acceptance and approval from CONTRACTOR, along with associated dates.
- C. In addition to the revisions that incorporated changes during construction, the as-built plans shall include the following information gathered during construction:
1. The location and elevation of foundations remaining below grade.
 2. The final profile of each bridge constructed. The profile shall include the elevation along the centerline (or as specified by SCDOT) and a line three feet inboard of each gutter line. Points on the profile shall be taken at no greater than 25-foot intervals and shall include the beginning and end of each span.
 3. If any structure has pile foundations, information concerning the pile driving operation shall be listed to include pile and driving equipment data, final pile bearing, elevation of pile tip when plan bearing was obtained, final pile tip elevation, penetration into the ground, and PDA or WEAP analysis data. This information shall be entered on each footing or bent sheet, or be included as a new sheet inserted immediately following the pertinent footing or bent sheet.
 4. If any structure has drilled shaft foundations, information concerning the installation of the shaft shall be listed to include the drilled shaft report. This information shall be entered on each footing or bent sheet, or be included as a new sheet inserted immediately following the pertinent footing or bent sheet.
 5. The final horizontal location of all existing and relocated utility lines and structures that are within the right-of-way. Include approved Utility Agreements, No Cost/No Conflict Letters, and Encroachment Permits.

6. The final location and elevations of all pipes, culverts, and drainage structures.
 7. To include all right-of-way revisions, permissions, and an updated right-of-way data sheet to show the date and manner of acquisition of each tract
- D. As-built plans shall be submitted as two full size (36 inch x 22 inch) copies and one (1) copy on compact disc in a format acceptable to SCDOT. The levels and symbology of the as-built CADD drawings shall conform to SCDOT standard levels and symbology used to develop the design drawings for the Project.

XXII. ESCROW PROPOSAL DOCUMENTS

The Contractor shall submit bid documentation used to prepare the technical and cost proposals for this contract to the Department in accordance with the Supplemental Specification entitled Escrow Bid Documentation dated October 1, 2014.

XXIII. DISPUTE RESOLUTION

- A. Each party hereby waives a trial by jury regarding any dispute between them arising out of this Contract and any such trial will be a non-jury trial before the South Carolina Circuit Court in Richland County.
- B. In the event of a dispute between the parties, it shall be a condition precedent to litigation that the parties submit the dispute to the Standing Dispute Review Board pursuant to the Claims Procedure set forth in the Project Supplemental Specifications.
- C. CONTRACTOR consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement, any court action in connection therewith, or for the entry of judgment on any award made, may be served on CONTRACTOR by certified mail (return receipt requested) addressed to CONTRACTOR at the address provided in Article XXVI. Notice by certified mail is deemed duly given upon deposit in the United States mail.

XXIV. SCDOT'S AGENT

SCDOT will appoint an individual who will be authorized to act on behalf of SCDOT, with whom CONTRACTOR may consult at all reasonable times, and whose instructions and decisions will be binding upon SCDOT as to all matters pertaining to this Agreement and the performance of the parties hereunder.

XXV. ASSIGNABILITY

The Contract shall not be assignable by CONTRACTOR without the prior written consent of SCDOT. SCDOT may assign the Contract without the consent of CONTRACTOR.

XXVI. GENERAL PROVISIONS

- A. This Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of South Carolina.
- B. Headings and titles of the various parts of this Agreement are for convenience of reference only and shall not be considered in interpreting the text of this Agreement. Modifications or amendments to this Agreement must be in writing and executed by duly authorized representatives of each party.
- C. In the event that any portion or all of this Agreement is held to be void or unenforceable, the parties agree to negotiate in good faith to reach an equitable agreement which shall affect the intent of the parties as set forth in this Agreement. For purposes of construction of this Agreement, this Agreement will be considered to have been drafted by both parties and will not be construed against SCDOT because it was drafted by SCDOT.
- D. All notices pertaining to this Agreement shall be in writing and, if to SCDOT, will be sufficient when sent registered or certified mail to SCDOT addressed as follows:

Deputy Secretary for Engineering
South Carolina Department of Transportation
Post Office Box 191
Columbia, South Carolina 29202-0191

All notices to CONTRACTOR shall be sufficient when sent registered or certified mail to CONTRACTOR addressed as follows:

United Infrastructure Group, Inc.
PO Box 268
Great Falls, SC 29055

- E. The Contract Documents set forth the full and complete understanding of the parties as of the Effective Date defined herein, and supersedes any and all prior agreements, representations, and understandings of any kind.
- F. The parties make no representations, covenants, warranties or guarantees, express or implied, other than those expressly set forth herein. The parties' rights, liabilities, responsibilities and remedies within respect to the work shall be exclusively those expressly set forth in this Agreement.
- G. In no event shall any failure by either party hereto to fully enforce any provision to this Agreement be construed as a waiver by such party of its right to subsequently enforce, assert or rely upon such provision.
- H. Nothing in this Agreement is intended to create any contract rights for any party other than SCDOT and CONTRACTOR, nor are any third-party beneficiary rights intended to be created hereby.

I-85 over Rocky Creek Bridge
Greenville County

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date defined herein. The Effective Date is defined as the date signed by the Director of Construction on behalf of South Carolina Department of Transportation.

Witnesses:

Maria A. Nevito
Manly E. Arnold

SOUTH CAROLINA DEPARTMENT
OF TRANSPORTATION

By: Robbie E. Isgett
Robbie Isgett, P.E.
Director of Construction

Date: 2-20-20

Recommended:

Brian Parnell
Brian Parnell
Contract Administrator

CONTRACTOR

Witnesses:

Victoria Baker
Jennifer Larson

United Infrastructure Group, Inc.

By: James E. Isgett
Its: President

CERTIFICATION OF CONTRACTOR

I hereby certify that I am the duly authorized representative of CONTRACTOR and that neither I nor the above CONTRACTOR I here represent has:

- a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONTRACTOR) to solicit or secure this contract;
- b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONTRACTOR) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract except as here expressly stated (if any);
- d) either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted proposal.

By execution of this Agreement, CONTRACTOR certifies CONTRACTOR and all CONTRACTOR's consultants, sub-consultants, contractors, employees and agents will comply with South Carolina's Ethics, Government Accountability, and Campaign Reform Act of 1991, as amended. The following statutes require special attention: (a) Offering, giving, soliciting, or receiving anything of value to influence action of public employee - §8-13-790, 8-13-705, 8-13-720; (b) Recovery of kickbacks - §8-13-790, (c) Offering, soliciting or recovering money for advice or assistance of public official - §8-13-720, (d) Use or disclosure of confidential information - §8-13-725, (e) Persons hired to assist in the preparation of specifications or evaluation of bids - §8-13-1150, (f) Solicitation of state employees - §8-13-755, 8-13-760 and §8-13-725, (g) False Claims Act - §16-13-240. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision.

I acknowledge that this certificate is to be furnished to the Department, the Federal Highway Administration, and the U. S. Department of Transportation, and is subject to applicable State and Federal laws, both criminal and civil.

I acknowledge that giving false, misleading, or incomplete information on this certification may subject me to prosecution under Section 16-9-10 of the South Carolina Code of Laws.

CONTRACTOR

United Infrastructure Group, Inc.

By: 

Its: President

Date: 2-18-20

I-85 over Rocky Creek Bridge
Greenville County

CERTIFICATION OF DEPARTMENT

I hereby certify that I am the Director of Construction for the South Carolina Department of Transportation (SCDOT) of the State of South Carolina and that the above CONTRACTOR or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this agreement to:

- a) employ or retain, or agree to employ or retain, any firm or person, or
- b) pay, or agree to pay, to any firm, person, or organization, any fee, contributions, donations, or consideration of any kind, except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, and U. S. Department of Transportation, and is subject to applicable State and Federal laws, both criminal and civil.

SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION

BY:  _____

TITLE: DIRECTOR OF CONSTRUCTION

Date: 2/20/20 _____

DRUG-FREE WORKPLACE CERTIFICATION

In accordance with Section 44-107-30, South Carolina Code of Laws (1976), as amended, and as a condition precedent to the execution of this agreement, the undersigned, who is an authorized representative of the CONTRACTOR certifies on behalf of the CONTRACTOR that the PROPOSER will provide a drug-free workplace by:

- (1) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensations, possession, or use of a controlled substance is prohibited in the CONTRACTOR's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
- (2) establishing a drug-free awareness program to inform employees about:
 - (a) the dangers of drug abuse in a workplace;
 - (b) the person's policy of maintaining a drug-free workplace;
 - (c) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) the penalties that may be imposed upon employees for drug violations;
- (3) making it a requirement that each employee to be engaged in the performance of the agreement be given a copy of the statement required by item (1);
- (4) notifying the employee in the statement required by item (1) that, as a condition of employment of this agreement, the employee will:
 - (a) abide by the terms of the statement; and
 - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
- (5) notifying the South Carolina Department of Transportation within ten days after receiving notice under item (4)(b) from an employee or otherwise receiving actual notice of the conviction;
- (6) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee convicted as required in Section 44-107-50; and
- (7) making a good faith effort to continue to maintain a drug-free workplace through implementation of items (1), (2), (3), (4), (5), and (6)

By execution of this Agreement CONTRACTOR certifies CONTRACTOR and all CONTRACTOR's consultants, sub-consultants, contractors, employees and agents will comply with all applicable provisions of the Drug-Free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

CONTRACTOR:

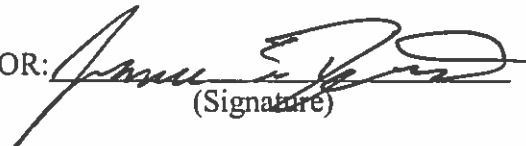

(Signature)

EXHIBIT 1

COST PROPOSAL BID FORM

9. COST PROPOSAL BID FORM

**I-85 over Rocky Creek Bridge
Greenville County**

CONTRACTOR: United Infrastructure Group, Inc.

ADDRESS: PO Box 268, Great Falls, SC 29055

Provide full Project scope as described in Attachment A.

TOTAL COST TO COMPLETE (A) = \$29,970,000.⁰⁰

No conditional Bids will be accepted and will be deemed non-responsive.


Signature

01/23/2020
Date

James E. Triplett
Printed Name

EXHIBIT 2

SCHEDULE OF VALUES

I-85 over Rocky Creek Bridge
EXHIBIT 2 - SCHEDULE OF VALUES
Project ID P038111

GRP	CODE	DESCRIPTION	COST	ITEM DESCRIPTION
10	9510301	Project Mobilization	\$ 1,498,000.00	Project Mobilization
20	9510305	Mobilization - Subcontractors	\$ 1,498,000.00	Subcontractor & Supplier Mobilization
30	9510303	Bonds / Insurance	\$ 599,000.00	Bonds & Insurance
40	9510500	Management & Coordination	\$ 2,000,000.00	Management, Supervision, Scheduling, Surveying, As Builts, Public Relations, Utility Coordination
50	9511101	Design & Engineering	\$ 3,200,000.00	Design & Engineering
60	9510704	ROW Acquisition	\$ 75,000.00	Right-of-Way Services & Acquisitions
70	9510601	Quality Control	\$ 600,000.00	Quality Control & Testing, Vibration Monitoring
80	9510700	Traffic Control	\$ 2,300,000.00	All Traffic Control Items
90	9581500	Erosion Control	\$ 1,200,000.00	Temporary & Permanent Erosion Control Items
100	9520102	Clearing & Grubbing	\$ 300,000.00	Clearing & Grubbing. Construction Access
110	9520203	Miscellaneous Construction & Demolition	\$ 300,000.00	Misc. Demo, Culvert Demo, & Barrier Demo
120	9520305	Earthwork & Ground Improvements	\$ 900,000.00	Ground Improvements
130	9571305	Mech. Stab. Earth Walls	\$ 900,000.00	MSE Walls & Moment Slabs
140	9520301	Grading & Drainage	\$ 3,900,000.00	Grading, Drainage, Jack/Bore, Pavement Removal, Riprap, Existing Drainage Repairs
150	9551150	Bridge Foundations & Substructure	\$ 700,000.00	Piles, Pile Tips, End Bent Caps, Wings, and Reinf. Steel, Waterproof, Underdrains
160	9551400	Bridge Beams	\$ 600,000.00	Beams, Diaphragms, Bearings
170	9570251	Bridge Superstructure	\$ 1,500,000.00	Deck, Approach Slabs, Reinf. Steel
180	9570300	Structure Incidentals	\$ 200,000.00	Parapets, Barrier, Grooving
190	9540001	Pavement & Miscellaneous Roadway	\$ 7,700,000.00	Fine Grade, Base, Paving, Barrier, Flatwork, Pvmt Mkgs, Perm. Signs, Grdrl, Fence, Punch List
CONTRACT VALUE			\$ 29,970,000.00	



South Carolina
Department of Transportation

February 11, 2020

UNITED INFRASTRUCTURE GROUP, INC.
PO BOX 268
GREAT FALLS, SC 29055

NOTIFICATION OF AWARD

Contract No.: 2353080
Project No.: P038111
Work Type: DESIGN-BUILD OVER ROCKY CREEK BRIDGE

Dear Contractor:

This letter serves as the official notification of award for the above referenced project based upon the bid submitted on January 23, 2020, by your company in the amount of **\$29,970,000.00** in response to the South Carolina Department of Transportation's (SCDOT) proposal request.

Subcontractor Request forms can be found on the SCDOT Extranet website under the Miscellaneous Construction tab. If required, please submit Sub1, Sub2 and Subreq3 to the appropriate Road or Bridge Construction Engineer.

Also, SCDOT will need the following items in order to fully execute the Design-Build Contract:

- Schedule of Values – Agreement 111.C.1
- Insurance Requirements – Agreement VI.A
- Bonding Requirements – Agreement VI.B

Ensure all of the required items are returned to my office within **Twenty (20) days** from the date of this letter.

Please contact the District Construction Engineer of **District # 3** at **PHONE # 864-241-1010** in order to schedule the preconstruction conference as set forth in Section 108.2 of the 2007 Standard Specifications for Highway Construction.

Yours very truly,

for

Robert E. Isgert III, P.E.
Director of Construction

REI/JBP/mad
File: CCA/JBP

Post Office Box 191
955 Park Street
Columbia, SC 29202-0191



www.scdot.org
An Equal Opportunity
Affirmative Action Employer
855-GO-SCDOT (855-467-2368)

South Carolina Department of Transportation Form No. 672A	Rev. 03-01-2016 PERFORMANCE AND INDEMNITY BOND	Date Bond Executed: FEB 20 2020
Principal: UNITED INFRASTRUCTURE GROUP, INC., GREAT FALLS, SC		Bond Number: SU1134509
Surety: ARCH INSURANCE COMPANY		
Penal Sum of Bond: \$29,970,000.00		Date of Contract: FEB 20 2020
Project S.C. File No.: 2353080, Proj. No. P038111		Contract Number: 17909

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL AND SURETY above named are held and firmly bound unto the South Carolina Department of Transportation, hereinafter called the Department, in the penal sum of the amount stated above which shall be equal to the full amount (100%) of the contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the Department, numbered and dated as shown above and hereto attached:

NOW, THEREFORE, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Department, with or without notice to the surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Attest Beady C. Smith
Corporate Secretary

In Presence of:
Witness (2 required)

1. Victoria Baker

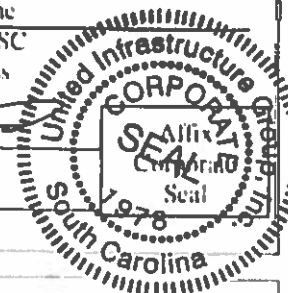
2. Jennifer Larson

FOR CORPORATE PRINCIPAL

UNITED INFRASTRUCTURE GROUP, INC.
Corporation Name
GREAT FALLS, SC
Business Address

By: John D. Leak, III

Title: President



In Presence of:
Witness (2 required)

1. Jennifer C. Hoehn


2. Donna K. Ashley

SURETY/INSURER

ARCH INSURANCE COMPANY
JERSEY CITY, NJ
Surety/ Insurers Name

By: John D. Leak, III

Title: John D. Leak, III, Attorney-In-Fact



South Carolina Department of Transportation Form No. 673	Rev. 03-01-2016 PAYMENT BOND	Date Bond Executed: FEB 20 2020
Principal: UNITED INFRASTRUCTURE GROUP, INC., GREAT FALLS, SC		Bond Number: SU1134509
Surety: ARCH INSURANCE COMPANY		
Penal Sum of Bond: \$29,970,000.00		Date of Contract: FEB 20 2020
Project S.C. File No.: 2353080, Proj. No. P038111		Contract Number: 17909

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL AND SURETY above named are held and firmly bound unto the South Carolina Department of Transportation, hereinafter called the Department, in the penal sum of the amount stated above which shall be equal to the full amount (100%) of the contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the Department, numbered and dated as shown above and hereto attached:

NOW, THEREFORE, if the principal shall promptly make payment to all persons supplying labor and material, such being construed to include, but not limit to, that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment directly applicable to the contract, in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice by which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Attest
Debra C. Paula
Corporate Secretary

In Presence of:
Witness (2 required)

1. Victoria Baker

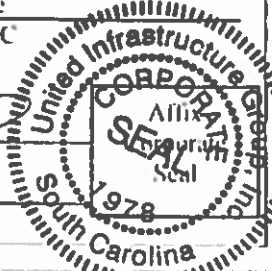
2. Jennifer Lason

FOR CORPORATE PRINCIPAL

UNITED INFRASTRUCTURE GROUP, INC.
Corporation Name
GREAT FALLS, SC
Business Address

By: John D. Leak, III

Title: President



In Presence of:
Witness (2 required)

1. Jennifer C. Hoehn
Jennifer C. Hoehn

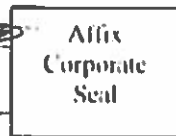
2. Donna K. Ashley
Donna K. Ashley

SURETY/INSURER

ARCH INSURANCE COMPANY
Surety/ Insurers Name
JERSEY CITY, NJ
Business Address

By: John D. Leak, III

Title: John D. Leak, III, Attorney-In-Fact



THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Angela D. Ramsey, Donna K. Ashley, Gregory T. Wilkerson, J. David Pollack, Jr., Jacqueline Hampton, Jennifer C. Hoehn, John D. Leak III and William J. Quinn of Charlotte, NC (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 25th day of October, 2019

Attested and Certified

Arch Insurance Company

Patrick K. Nails

Patrick K. Nails, Secretary



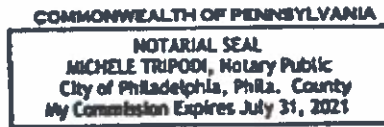
David M. Finkelstein

David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Michele Tripodi, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.



Michele Tripodi

Michele Tripodi, Notary Public
My commission expires 07/31/2021

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated October 25, 2019 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this _____ day of FEB 20 2020

Patrick K. Nails

Patrick K. Nails, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES R.ELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance – Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102



- Kant 1 Kopy® K1 Security Paper
- Hidden Pantograph
- Color Match
- Artificial Watermark
- Anti-Copy Coin Rub
- Erasure Protection
- Security Features Box
- Microprint Protection
- Acid Free

00ML0013 00 03 03



ADDITIONAL REMARKS SCHEDULE

AGENCY Marsh & McLennan Agency		NAMED INSURED United Infrastructure Group, Inc. 3800 Arco Corporate Drive Suite 200 Charlotte NC 28273	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE**

The following applies to the Automobile Liability as required by written contract:

- Blanket Waiver of Subrogation
 - Blanket Additional Insured
 - Coverage is Primary and Non-Contributory
- Hired Auto Physical Damage: Actual Cash Value or Cost to Repair, Deductibles: \$100 Comprehensive & \$500 Collision

The following applies to the Umbrella and Excess Liability policies as required by written contract:

- Blanket Additional Insured
- Coverage is Primary & Non-Contributory
- Blanket Waiver of Subrogation

In respects to all policies: 3rd Party 30 Day Notice of Cancellation will be provided by e-mail only if required by written contract.

Re: Contract #2343080, Project #P03811, Design-Build I-85 Over Rocky Creek Bridge Greenville, SC. South Carolina Department of Transportation is additional insured in respects to general liability, auto and umbrella and will be provided 30 day notice of cancellation as required by written contract. Waiver of subrogation applies in respects to general liability, auto, workers compensation and umbrella as required by written contract.

