



TOWN OF EDISTO BEACH

REQUEST FOR QUALIFICATIONS PROFESSIONAL ENGINEERING STORMWATER MANAGEMENT SERVICES ON AN “AS NEEDED” BASIS

2414 Murray Street
Edisto Beach, SC 29438

RFQ No. 2019-07
September 24, 2019

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TOWN OF EDISTO BEACH

Administration
Iris Hill
Town Administrator

REQUEST FOR QUALIFICATIONS #2019-07 EDISTO BEACH STORMWATER PROFESSIONAL ENGINEERING SERVICES

Sealed submittals will be received in Town Hall, 2414 Murray Street, Edisto Beach, South Carolina until 2:00 P.M. ET, **November 5, 2019**. All qualified firms are invited to submit proposals to the Town of Edisto Beach for the following.

Edisto Beach Stormwater Professional Engineering Services

The Town encourages the use of recycled paper products and double-sided print. The Town discourages the use of plastic products including 3-ring binders, plastic folders, etc. for all submissions.

SUBMIT One unbound original and 4 bound copies of all requested documentation must be received on or before 2:00 P.M. ET, November 5, 2019.

MAILING ADDRESS Town of Edisto Beach
2414 Murray Street
Edisto Beach, SC 29438
Attn: Iris Hill

EMAIL ihill@townofedistobeach.com

DEADLINE ENFORCED:

Submittals delivered after the time and date set for receipt of submittals shall not be accepted and will be returned unopened to the firm. It is the firm's responsibility to ensure timely delivery of the submittal. Weather, flight delays, carrier errors and other acts of otherwise excusable neglect are risks allocated to firms and will not be exempted from the deadline requirements, email, telephone, or faxed proposals will not be accepted.

Any submittal as a result of this RFQ shall be binding on the Firm for ninety (90) calendar days following the specified opening date. Any submittal for which the Firm specifies a shorter acceptance period will be rejected.

If the Firm discovers any ambiguity, conflict, discrepancy, omission or other error in the RFQ, the Firm shall immediately notify the Town of such error in writing and request modification or clarification of the document. The Firm is responsible for clarifying any ambiguity, conflict discrepancy, omission or other error in the RFQ or the matter shall be waived.

Proprietary and/or Confidential Information

Your submittal is a public document under the South Carolina Freedom of Information Act (FOIA), except as to information that may be treated as confidential as an exception to disclosure under the FOIA. If you cannot agree to the standard, please do not submit your submittal. Any information that is to be treated as confidential and or proprietary must be clearly identified on each page containing confidential and/or proprietary information, in whole or in part and must be stamped or denoted as CONFIDENTIAL, in bold, in a font of at least 12- point type in the upper right-hand corner of the page.

Firms are cautioned that any statement made by Town staff persons that materially change any portion of this RFQ shall not be relied upon unless they are subsequently ratified by a formal written amendment to this RFQ.

Questions regarding this submittal must be in writing and must be sent to Iris Hill, Town Administrator, email: ihill@townofedistobeach.com; fax (843) 869-3855. **All questions must be received by October 21, 2019.**

Any revisions to this RFQ will be issued and distributed as an addendum. All addenda, additional communications, responses to the questions pertaining to the RFQ will be posted on the website at: www.townofedistobeach.com/bids.

Prospective Firms shall not contact, communicate with or discuss any matter relating in any way to the Request for Qualifications with the Town Council, any employee of the Town of Edisto Beach, or Professional Services Selection Committee, other than as directed in the cover page of the Request for Qualifications. Such communications initiated by a Firm shall be grounds for disqualifying the offending Firm from consideration for award of the submittal and/or any future submittal.

Attached are important instructions and specifications regarding responses to this Request for Qualifications. Failure to follow these instructions could result in disqualification.

Sealed submittals may be mailed, express mailed or hand delivered to:

**Town of Edisto Beach
2414 Murray Street
Edisto Beach, South Carolina 29438**

REQUEST OF QUALIFICATIONS REGISTRATION

You MUST register using this form in order to receive notice of any addenda to these documents. Please email the completed form to the Administration Department as soon as possible. It is the Firm's responsibility to verify if addenda have been issued.

RFQ Number and Title: 2019-07, Edisto Beach Professional Engineering Storm Water Management Services on an "as needed" basis

Description: The Town of Edisto Beach is seeking to contract with a firm or firms to provide engineering services to address flooding issues. Services include, but are not limited to, drainage studies, storm water project engineering, design and construction oversight, hydrological studies, lagoon management, sea level rise, and other ancillary work such as rate studies, roadway repairs, surveying and grading. Firms must have demonstrated experience working with state and federal agencies.

Work authorizations will be issued for specific projects under a master consulting agreement.

Receiving Period: November 5, 2019 Prior to 2:00 p.m. (**Please note that UPS and Fed EX do not guarantee next day delivery before 2:00 pm in this zip code**)

Opening: November 5, 2019, 2:00 p.m.

This form is for registration only. Please scroll down for additional information.

FIRM REGISTRATION
EMAIL THIS FORM BACK IMMEDIATELY
EMAIL: ihill@townofedistobeach.com

Carefully complete this form and email it to the Administration Department. You must submit one form for each submittal that you are registering for.

Firm Name: _____

Contact Person: _____

Mailing Address: _____

City: State: Zip Code: _____

Phone: Fax: E-mail: _____

Mobile Phone (Text) _____

CURRENT E-MAIL ADDRESS REQUIRED

Once selected, Notice of Award shall be posted on the Town's website; and notices of non-award, shall be sent to all proposers via e-mail.

Cut along the outer border and affix this label to your sealed proposal envelope to identify it as a "Sealed Submittal". Be sure to include the name of the firm where requested.

SEALED SUBMITTAL • DO NOT OPEN

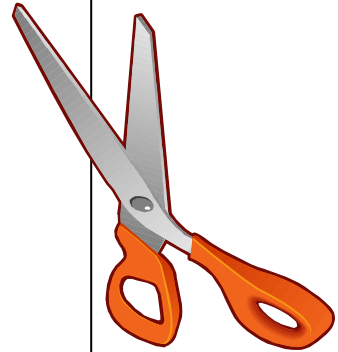
SEALED SUBMITTAL NO.: 2019-07

TITLE: Edisto Beach Storm water Management Professional Engineering Services

DUE DATE/TIME: November 5, 2019 prior to 2:00 PM

SUBMITTED BY: _____
(Name of Firm)

DELIVER TO: Town of Edisto Beach
Administration Department
2414 Murray Street
Edisto Beach, South Carolina 29438



Background

Flooding on Edisto Beach continues to be an issue with influences from surrounding water sources. Flat terrain combined with sea level rise has exacerbated the problems. An internal privately owned tidal lagoon also impacts flooding.

The Town has a Stormwater Management Plan from 2004 and a drainage maintenance plan developed in 2011.

Scope of Services

The Town of Edisto Beach, a political subdivision of the State of South Carolina, seeks submittal of qualifications from qualified Engineering Firms (Firm) who are interested in providing professional engineering services on an "as needed" basis related to the Town's storm water problems. Anticipated services may include, but are not limited to the Billow Street/Arc Street drainage system, Yacht Club Road Drainage, lagoon management, and sea level rise evaluation and mapping. Services also include drainage studies, storm water project engineering, design and construction oversight, hydrological studies, and other ancillary work such as rate studies, roadways, surveying and grading. Firms must have demonstrated experience working with state and federal agencies.

Submittal Format

Submit qualifications in the following format:

A. Title Page

Title page showing the Request for Submittal subject; the Firm's name; the name, address, and telephone number, email and mobile phone number of a contact person; the date of the submittal and a copy of the Firm's Organization Chart.

B. Table of Contents

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

C. Transmittal Letter

A signed letter of transmittal briefly stating the Firm's understanding of the work to be done, the commitment to perform the work, and a statement why the Firm believes it to be best qualified to perform the engagement and any ongoing projects yet to be identified.

D. Firm Qualifications

The Firm must address and demonstrate the organizational strength and stability of the Firm. The Firm must address their qualifications as it relates to the Edisto Beach Scope of Work.

The purpose of the scope of work is for the Firm to demonstrate their understanding of the project and difficulties the Town faces with the project and potential solutions to said difficulties.

E. Project Team

Firm shall submit a resume for each member of the project team. Submittals shall identify the Principal-in-Charge and Project Manager for this project. Submittals shall also provide a statement of the Firm’s commitment that the identified individuals will be involved throughout the entire project.

F. References

Firm shall submit examples of three projects completed within the last 5 years representative of the Town’s needs, cost of project, Firm’s project manager and client contact information. The experience of work by the Firm, which was obtained by personnel no longer with the Firm, and therefore, not available for work on the project, or the work performed by personnel who will not perform on this project, is of no interest to the Town and shall not be submitted in the response when providing the Firm’s qualifications. Town evaluators will only consider projects that were presided over by project members who still work for the Firm in the office submitting a proposal. Failure to properly identify work accurately may disqualify the proposal.

G. Fee Schedule

Firm shall submit a fee schedule including all per hour rates for all project personnel and reimbursables.

H. I-312 Form

Attachment #1.

I. Compliance with Illegal Immigration Form

Attachment #2.

J. Equal Employment Opportunity Certification

Attachment #3.

K. Insurance Requirements

Attachment #4

L. Drug-Free Workplace Act

Attachment #5

M. Non-Collusion Oath

Attachment #6

N. Ethics in Public Contracting Affidavit

Attachment #7

Selection Process

A selection team shall be formed to review and evaluate the submittals. The selection team members shall complete evaluation forms giving consideration to information provided in the submittals.

The selection team will review the qualifications of the submitting firms. The Town reserves the right to determine, at its sole discretion, whether the statement of qualifications satisfactorily meets the criteria established in the RFQ, and the firm to seek clarification from a firm(s) submitting qualifications. Only those judged to be qualified submittals would be further evaluated for possible short-listing. Those firms short-listed may be requested to make a presentation to the selection team. During the review process, and until the final selection has been made by Town council, firms are prohibited from meeting with or discussing a submittal with any member of the selection team or the Town of Edisto Beach Town Council.

Proposal Evaluation Criteria

- Quality of proposal (Maximum 5 points)
- Qualifications of the Firm (Maximum 30 points)
- Qualifications of Key Personnel (Maximum 25 points)
- Project Approach (Maximum 20 points)
- Proven Performance (Maximum 25 points)

The Town may request additional information after the submission of the initial submittals in order to clarify, confirm or properly evaluate any submittal. The Town also reserves the right to negotiate terms of the contract with the intended firm pursuant to Town's

Procurement Policy.

There is no expressed or implied obligation for the Town to reimburse responding firms for any expenses incurred in preparing the proposal and/or any subsequent interview and/or requests for additional information. A copy of the firm's submittal will be attached to the contract; however, in the event of any ambiguity with any attachments, the contract and Purchasing Policy will prevail.

Contract Markup

The RFQ must include in Appendix A, a detailed markup of the Draft Master Stormwater Engineering Contract (including its attachments), setting forth any and all revisions requested by the Firm. Although it is likely that the Town will undertake negotiations regarding the Master Stormwater Engineering Contract, the Master Stormwater Engineering Contract Markup will be treated as a *de facto* offer that the Town can accept as is, resulting in a binding contract between the Firm and Town without further negotiations or revision.

Firms must describe the significant revisions included in the Contract markup and explain the rationale and the associated benefits.

General Conditions

PUBLIC RECORD

After an award is made, copies of the proposals will be available for public inspection, from 8:00 a.m. to 4:30 p.m., Monday through Friday, at 2414 Murray Street, Edisto Beach, South Carolina.

PROPRIETARY INFORMATION

The firms are asked for any restriction on the use of data contained in their responses and told that proprietary information will be handled in accordance with applicable laws, regulations and policies of the Town of Edisto Beach, South Carolina. All proprietary information shall be labeled as such in the proposal.

BACKGROUND CHECK

The Town reserves the right to conduct a background inquiry on each firm which may include the collection of appropriate criminal history information, contractual business associates and practices, employment histories and reputation in the business community. By submitting a proposal to the Town, the firm consents to such an inquiry and agrees to make available to the Town such books and records as the Town deems necessary to conduct the inquiry.

RECORDS

The firm shall maintain accurate and detailed books, records, correspondence and accounts relating to all parts of the project. Records shall be kept in accordance with sound generally accepted accounting principles. The Town shall have the right to audit all records pertaining to the costs incurred under this contract. Such records shall be available during the term of the contract and for four (4) years after final payment under this contract.

REQUIREMENTS

The successful firm shall comply with all instructions and shall perform services in a manner commensurate with the highest professional standards by qualified and experienced personnel.

INDEPENDENT CONSULTANT

The selected firm shall be legally considered an independent consultant and neither the firm nor its employees shall, under any circumstances, be considered employees of the Town; and the Town shall be at no time legally responsible for any negligence or other wrong doing by the firm or its employees. The Town shall not withhold from the contract payment to the consultant any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to firm. Further, the Town shall not provide to the firm any insurance coverage or other benefits, including Workers' Compensation.

JURISDICTION

This agreement shall be governed by the laws of the state of South Carolina. The firm shall not assign, transfer, convey, sublet, or otherwise dispose of any or all of its rights, title, or interest therein, without prior written consent of the Town.

ACCEPTANCE OF PROPOSAL CONTENT

Before submitting an offer, each firm shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the performance of the contract and to verify any representations made by the Town upon which the submittal will rely. If the firm receives an award as a result of its proposal, failure to have made such investigations and examinations will in no way relieve the firm from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the firm for additional compensation.

COMPETITIVE NEGOTIATION SOLICITATION

Negotiations shall be conducted, beginning with the firm ranked first. If a contract

satisfactory and advantageous to the Town can be negotiated at a price considered fair and reasonable, the award shall be made to that firm. Otherwise, negotiations with the firm ranked first shall be formally terminated and negotiations with the firm ranked second shall be conducted.

FORCE MAJEURE

The firm shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the firm, unless otherwise specified in the contract.

FAILURE TO ENFORCE

Failure by the Town at any time to enforce the provisions of the contract shall not be construed as a waiver of any provisions. The failure to enforce shall not affect the validity of the contract or any part or the right of the Town to enforce any provision at any time in accordance with its terms.

FAILURE TO DELIVER

In the event of failure of the firm to deliver services in accordance with the contract terms and conditions, the Town, after due oral or written notice, may procure the services from other sources and hold the firm responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Town may have.

EMPLOYMENT DISCRIMINATION

During the performance of the contract, the selected firm agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin; however, some conditions may be a bona fide occupational qualification reasonably necessary for the normal operations of the firm. The firm agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

DETERMINATION OF RESPONSIBILITY

The Town may make such investigation as it deems necessary to determine the ability of a firm to furnish the required services, and the firm will furnish to the Town requested information and data for this purpose. The Town reserves the right to reject any firm if the evidence submitted by or investigation of the firm fails to satisfy the Town that such firm is properly qualified to carry out the obligations of a Contract, and to deliver the services contemplated herein. Firm will fully inform themselves as to conditions, requirements, and

scope and manner of services before submitting their proposal. Failure to do so will be at the firm's own risk.

INDEMNIFICATION

The selected firm covenants to save, defend, keep harmless, and indemnify the Town and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and costs, including court costs, attorney's fees, charges, liability, and exposure, however, caused, resulting from, arising out of, or in any way connected to the selected firm's negligent performance or nonperformance of the terms of the contract.

INSURANCE

The firm shall procure and maintain, during the life of the contract, insurance coverage, for not less than any limits of liability shown below and shall include contractual liability insurance as applicable to the firm's obligations, with a carrier authorized to do business in the State of South Carolina. Each work authorization shall have project specific issued insurance certificate with the Town listed as additional insured.

All coverage shall be primary and shall apply separately to each insured against whom claim is made or suite is brought, except with respect to the limits of the insurer's liability. Original certificates, signed by a person authorized to bind coverage on its behalf, shall be furnished to the Town by the successful bidder.

Certificates of insurance must be included in the proposal.

- (a). Commercial General Liability: The firm shall maintain insurance for protection against all claims arising from injury to person or persons not in the employ of the firm and against all claims resulting from damage to any property due to any act or omission of the firm, his agents, or employees in the operation of the work or the execution of this contract.

Where the work to be performed involves excavation or other underground work or construction, the property damage insurance provided shall cover all claims due to destruction of subsurface property such as wire, conduits, pipes, etc., caused by the firm's operation. The minimum shall be as follows: Bodily Injury (Injury or Accidental Death) and Property Damage \$1,000,000 per occurrence

- (b). Comprehensive Automobile Liability: The firm shall maintain Automobile Liability Insurance for protection against all claims arising from the use of vehicles, rented

vehicles, or any other vehicle in the prosecution of the work included in this contract. Such insurance shall cover the use of automobiles and trucks on and off the site of the project.

The minimum amounts of Automobile Liability Insurance shall be as follows:

Bodily Injury (Injury or Accidental Death) and Property Damage
..... \$1,000,000 Combined Single Limit

- (c). South Carolina Workers' Compensation Insurance: The firm shall maintain Workers' Compensation Insurance for all of its employees who are in any way connected with the performance under this agreement. Such insurance shall comply with all applicable state laws.

South Carolina Workers' Compensation - Statutory Limits

Employers Liability Insurance - \$500,000 - Each Accident
\$500,000 - Disease Each Employee
\$500,000 - Disease Policy Limit

- (d). Professional Liability Insurance: If providing a professional service, the firm shall maintain Professional Liability Insurance to cover errors, acts of omission by the vendor, its agents and representations in the performance of its obligations herein:

.....\$1,000,000 per occurrence.

Firm shall provide the Town with a Certificate of Insurance showing proof of insurance acceptable to the Town. Certificates containing wording that releases the insurance company from liability for non-notification of cancellation of the insurance policy are not acceptable.

Firm and/or its insurers are responsible for payment of any liability arising out of Workers' Compensation, unemployment or employee benefits offered to its employees.

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, and licensed to operate in South Carolina by the South Carolina Department of Insurance, unless otherwise acceptable to the Town.

Workers' Compensation policy is to be endorsed to include a waiver of subrogation in favor of the Town, its officers, officials, employees, and agents.

The successful firm shall maintain the Automobile Liability and General Liability insurance, naming the Town, its officers, officials, employees and agents as Additional Insured as respects liability arising out of the activities performed in connection with this request for bids. It shall be an affirmative obligation upon the firm to advise the Town Administrator at fax number 843-869-3855 or by e-mail to ihill@townofedistobeach.com within two days of the cancellation or substantive change of any insurance policy/coverage required above. Failure to do so shall be construed to be a breach of contract.

Should firm cease to have insurance as required during any time, all work by firm pursuant to this agreement shall cease until insurance acceptable to the Town is provided.

Deductibles, Co-Insurance Penalties, & Self-Insured Retention: The firm shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, or self-insured retention.

Subconsultant's Insurance: The firm shall agree to cause each subconsultant employed by firm to purchase and maintain insurance of the type specified herein, unless the firm's insurance provides coverage on behalf of the subconsultant. When requested by the Town, the firm shall agree to obtain and furnish copies of certificates of insurance evidencing coverage for each subconsultant.

PROFESSIONAL LICENSING

Firm shall secure and pay for licenses and/or certificates that may be necessary for proper execution and completion of the contract and which are legally required when proposals are received or negotiations concluded.

TOWN BUSINESS LICENSE

The firm must obtain all business license(s) required by the Edisto Beach Codes and Ordinances. A Business License is not required to submit a bid. However, any firm that receives an award under this bid proposal shall be required to obtain a Town

Business License before work can begin. For further information on the provisions of the Town Business License Regulations and their applicability to this contract, contact the Edisto Beach Business License Division at (843) 869 2505 x 203.

TERMINATION FOR CONVENIENCE OR FOR CAUSE

Termination for Convenience

Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement. Contractor shall not be entitled to any claim or claim of lien against Owner for any additional compensation or damages in the event of such termination and payment.

Termination for Cause by Either Party

If one party should breach or fail to perform any provision of this Agreement, then the other party may give written notice of such default (Notice of Default) to the breaching party. If the breaching party should fail to cure such default within thirty (30) days of notice thereof, the non-breaching party shall have the right to terminate this Agreement by a second written notice (Notice of Termination) to the breaching party. If a Notice of Termination is sent to the breaching party, this Agreement shall automatically terminate on the effective date of such notice. Termination shall not relieve the breaching party of its obligation to pay all amounts due to the non-breaching party as of the effective date of termination and shall not impair any accrued rights, including the right to pursue all available legal remedies for damages, of the non-breaching party.

COMPLIANCE WITH LAWS

The selected firm shall, in the performance of work under this contract, fully comply

with all applicable Federal, State, County, or Municipal Laws, Rules, Regulations, or Ordinances and shall hold the Town harmless from any liability resulting from failure of such compliance.

RIGHTS RESERVED BY CITY

The right is reserved by the Town to reject any or all proposals; to waive any informality or irregularity not affected by law; to evaluate, in its absolute discretion, the proposals submitted; and to award the contract based on the established criteria and according to the proposal which best serves the interest of the Town.

NON-COLLUSION AFFIDAVIT

As part of the firm's proposal, the firm shall include the attached Non-Collusion Affidavit duly signed by a principal of the firm certifying that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any or all proposals shall be rejected if there is any reason for believing that collusion exists among the proposers. The Town may or may not, at its discretion, accept future proposals for the same work from participants in such collusion.

ETHICS IN PUBLIC CONTRACTING

To comply with the provision of Section 8-13-100 et seq., Code of Laws of South Carolina, the firm shall certify in writing and include with its proposal that its offer was made without fraud; that it has not offered or received any kickbacks or inducements from any other proposer, supplier, manufacturer, or subconsultant in connection with the offer; and that it has not conferred on any public employee, public member, or public official having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money services, or anything of more than nominal value. The firm shall certify further that no relationship exists between itself and the Town, another person, or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract with the Town.

Federal and State Projects

If the firm is asked to provide a work authorization for a federal or state funded project under this RFQ, additional terms will be required to meet the requirements for those grant funded projects. These requirements are listed below:

Attachment 1.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
**NONRESIDENT TAXPAYER
REGISTRATION AFFIDAVIT
INCOME TAX WITHHOLDING**

I-312
(Rev. 7/28/06)
3323

Mail to: The company or individual you are contracting with.

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: _____
2. Trade Name, if applicable (Doing Business As):

3. Mailing Address: _____
4. Federal Identification Number: _____
5. _____ Hiring or Contracting with:
Name: _____
Address: _____

_____ Receiving Rentals or Royalties From:
Name: _____
Address: _____

_____ Beneficiary of Trusts and Estates:
Name: _____
Address: _____

6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):
 The South Carolina Secretary of State or
 The South Carolina Department of Revenue
Date of Registration: _____
7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.
8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both. Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) _____ Date

If Corporate officer state title: _____

(Name - Please Print)

33231010

**INSTRUCTIONS
NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT**

The form I-312 should be submitted to the company or individual you are contracting with.

This form is not submitted to South Carolina Department of Revenue.

REQUIREMENTS TO MAKE WITHHOLDING PAYMENTS

Code Section 12-8-550 requires persons hiring or contracting with a nonresident taxpayer to withhold 2% of each payment made to the nonresident where the payments under the contract exceed \$10,000. However, this section does not apply to payments on purchase orders for tangible personal property when those payments are not accompanied by services to be performed in this state.

Code Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation.

Code Section 12-8-570 requires trusts or estates making distribution of South Carolina taxable income to a nonresident beneficiary to withhold 7% of the beneficiary's distribution which is attributable to South Carolina taxable income.

PURPOSE OF AFFIDAVIT

A person is not required to withhold taxes for a nonresident taxpayer who submits an affidavit certifying that they are registered with either the South Carolina Secretary of State or the South Carolina Department of Revenue.

Our Internet address is: www.sctax.org

33232018

Attachment 2.

Firm: _____ RFQ NO: _____

COMPLIANCE WITH ILLEGAL IMMIGRATION ACT

By signing a proposal, the firm certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either; (a) that Title 8, Chapter 14 is inapplicable to firm and its subcontractors or sub-subcontractors; or (b) that the firm and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14.

Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this Chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the Court or imprisoned for not more than five years, or both."

Firm agrees to include in any contracts with subcontractors, language requiring subcontractors to (a) comply with applicable requirements of Title 8, Chapter 14, and (b) include in its contracts with the sub-contractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

RFQ No: _____

Project Name: _____

Firm Name: _____

Address: _____

Authorized Representative Name and Title: _____

Signature of Authorized Representative: _____

Witness (Print Name and Sign) _____

Attachment 3:

FIRM: _____ RFQ NO. _____

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

(For Firms Other Than Individuals)

Edisto Beach requires compliance with State and Federal regulations governing Equal Employment Opportunity, External Equal Opportunities (EO), External On-the-Job Training (OJT), Title VI, and the Americans with Disabilities Act (ADA) programs.

Sub recipients of federal-aid contracts must include notifications in all solicitations for bids of work or material and agreements, subject to Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities. Sub-recipients, contractors and subcontractors may not discriminate in their employment practices or in the selection and retention of any subcontractor.

By Signing this document, the Firm hereby certifies its commitment to assure nondiscrimination in its programs and activities to the effect that no person shall on the grounds of race, color, national origin, sex, age, disability or income status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded programs or activity administered by the sub-recipient and/or its contractors.

RFQ No: _____

Project Name: _____

Firm Name: _____

Address: _____

Authorized Representative Name and Title: _____

Signature of Authorized Representative: _____

Witness (Print Name and Sign): _____

Attachment 4:

Sample Certificate of Insurance

Contractor's Insurance Broker

ACORD		CERTIFICATE OF LIABILITY INSURANCE		Date (mm/dd/yyyy)	
Agency Manager, Inc. 2500 Bond Street University Park, IL 60466		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
Phone No. 800-999-5368		COMPANIES AFFORDING COVERAGE			
INSURED contractor 123 Main Street San Francisco CA 45678		COMPANY A Selective Insurance Company COMPANY B Indemnity Insurance COMPANY C State Fund COMPANY D			
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THE CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	UNITS	
GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNERS & CONTRACTORS	123456789	08/01/13	08/01/14	GENERAL AGGREGATE	\$ 3,000,000
				PRODUCTS-COMP/OP AGG	\$ 1,000,000
				PERSONAL & ADV INJURY	\$ 1,000,000
				EACH OCCURRENCE	\$ 3,000,000
				FIRE DAMAGE (Any one fire)	\$ 50,000
				MED EXP (Any One Person)	\$ 5,000
AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTO <input checked="" type="checkbox"/> NON-OWNED AUTOS GARAGE LIABILITY	123456789	08/01/13	08/01/14	COMBINED SINGLE LIMIT	\$ 1,000,000
				BODILY INJURY (Per Person)	\$ 3,000,000
SAMPLE ONLY				BODILY INJURY (Per Accident)	\$
EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM C	456789123	08/01/13	08/01/14	AUTO ONLY -EA ACCIDENT	\$
				OTHER THAN AUTO ONLY	\$
				EACH ACCIDENT	\$
WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY	345678912	08/01/13	08/01/14	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
				EACH OCCURRENCE	\$ 1,000,000
				EL DISEASE-POLICY LIMIT	\$ 1,000,000
				EL DISEASE - EA EMPLOYEE	\$ 1,000,000
RE: Much Needed Renovation Project Job No. 97-5210 General Liability - Certificate Holder is an Additional Insured per attached Form CG 20 10 11 85 and coverage is primary and non-contributory with any insurance carried by Additional Insured.					
CERTIFICATE HOLDER		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED PLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OF LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.			
AUTHORIZED REPRESENTATIVE		ACCORD CORPORATION 1998			

Name of Contractor (it should match the name as written in the contract)

Claims Made or Modified Occurrence is not acceptable

This section should reference the job number, project name, and/or location

Current dates are required

The two "each occurrence" boxes should total at least as much as required in contract

The totals in each box should be at least \$1 million

This should name Town of Edisto Beach, as additional insured 2414 Murray Street Edisto Beach, SC 29438

Signed by the Broker or Ins Co. only

This wording should be "X"d out

Attachment 5.

FIRM _____ RFQ NO. _____

DRUG-FREE WORKPLACE AFFIDAVIT

I certify to comply with the Drug-Free Workplace Act, Section 44-107-10 et. Seq. of the South Carolina Code of Laws to provide a drug free workplace. (This clause applies to any resultant contract of \$50,000.00 or more). The State of South Carolina has amended Title 44, Code of Laws of South Carolina, 1976, relating to health, by adding Chapter 107, so as to enact the Drug-Free Workplace Act.

Date: _____

Firm: _____

Address: _____

Telephone _____

By _____

(Signature)

Failure to Furnish This Affidavit Will Result in the Delay of Contract

Attachment 6.

FIRM: _____

RFQ No. _____

NON-COLLUSION OATH

COUNTY OF: _____

STATE OF: _____

Before me, the Undersigned, a Notary Public, for and in the County and State aforesaid, personally appeared _____ and made oath that the Firm herein, its agents, servants, and/or employees, to the best of its knowledge and belief, have not in any way colluded with anyone for and on behalf of the Firm, or itself, to obtain information that would give the Firm any unfair advantage over others, nor have it colluded with anyone for an on behalf of the Firm, or itself, to gain any favoritism in the award of the Contract herein.

SWORN TO BEFORE ME THIS

_____ DAY OF _____, 2019

Authorized Signature of Firm

Please print Firm's Name and Address:

NOTARY PUBLIC FOR THE

STATE OF _____

My Commission Expires: _____

Print Name: _____

Address: _____

Phone Number: _____

(Note: Notary seal required for Out of State Firm)

Attachment 7.

ETHICS IN PUBLIC CONTRACTING AFFIDAVIT

STATE OF _____)

COUNTY OF _____)

_____, being first duly sworn, deposes and says that:

1. He/She is _____(title) for/of _____ (company/business), the Bidder that has submitted the attached Submittal;
2. He/She is legally qualified and capable of signing this affidavit and is authorized to do so by Firm;
3. He/She is fully informed regarding the preparation and contents of the attached Submittal and of all pertinent circumstances respecting such Submittal;
4. Such Submittal is genuine and is made without fraud;
5. Neither the said Firm, nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest has offered or received any kickbacks or inducements from any offeror, suppliers, manufacturer, or subcontractor in connection with the offer, and they have not conferred on any public employee, public member, or public official having official responsibility for this procurement or transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of value as defined in Section 8-13-100 of the South Carolina Code of Laws; and
6. Furthermore, neither the Firm, nor any of its officers, partners, owners, agents representatives, employees or parties in interest has any relationship with the Town, another person, or organization that interferes with fair competition or that constitutes a conflict of interest with respect to a contract with the Town.

DATE

COMPANY/BUSINESS

BY: _____

SIGNATURE

PRINTED NAME

SWORN to before me this _____ ITS: _____

TITLE

day of _____, 20_____

Notary Public for _____(state)

My commission expires _____
By: _____

MASTER SERVICES AGREEMENT

THIS AGREEMENT entered into this day of ,2019, between the TOWN OF EDISTO BEACH, a political subdivision of the State of South Carolina, by and through its Town Council, situated at 2414 Murray Street, Edisto Beach, SC 29438, hereinafter referred to as TOWN, and a, corporation headquartered at hereinafter referred to as FIRM, and whose Federal Employer Identification Number is _____ .

WHEREAS, the TOWN requires certain professional services in connection with stormwater services on Edisto Beach; and,

WHEREAS, the TOWN has solicited these services in RFQ #2019-07, included by reference as to the scope of services contained therein; and

WHEREAS, the FIRM represents it is capable and prepared to provide such Services;

NOW, THEREFORE, in consideration of the promises contained herein, the parties hereto agree as follows:

1.0 Term

1.1 This Agreement shall take effect on the date of its execution by the Mayor, Edisto Beach Town Council.

1.2 The term of this Agreement shall be for a three (3) year period, commencing upon the effective date, unless otherwise terminated as provided herein.

1.3 The TOWN shall have the option of extending the Agreement for up to two (2) two (2) year terms, as approved by the TOWN, at the same terms and conditions by giving the FIRM written notice not less than thirty (30) days prior to the expiration of the initial term.

2.0 Services to Be Performed by FIRM

2.1 FIRM shall perform the services as generally described in the Scope of Services, Exhibit A, and as may be further specifically designated and authorized by the TOWN, in writing. Such authorization will be referred to as a Work Authorization and all provisions of this Agreement apply to the Work Authorization with full force and effect as if appearing in full within each Work Authorization. Each Work Authorization will set forth a specific Scope of Services, maximum limit of compensation, schedule, liquidated damages and completion date, and shall become effective upon the due execution.

2.2 The FIRM is not authorized to undertake any project without a duly executed Work Authorization, which shall specify the work to be performed. FIRM recognizes that the TOWN may employ several different consultants to perform the work described and that the FIRM has not been employed as the exclusive agent to perform any such services.

2.3 When the FIRM and the TOWN enter into a Work Authorization where the term of the Work Authorization expires on a date that is later than the date that the Master Services Agreement (MSA) expires, the FIRM and the TOWN agree that the terms of the MSA and any amendments, attachments or provisions thereof are automatically extended until the expiration or full completion of the requirements of the Work Authorization have been performed. Cancellation by the TOWN of any remaining work prior to the full completion of the requirements of the Work Authorization shall cause the terms of the MSA to terminate at the same time. This provision only applies when the expiration of the Work Authorization extends beyond the expiration of the MSA. It does not apply when a Work Authorization expires or is cancelled prior to the expiration of the MSA.

3.0 Compensation

3.1 General

3.1.1 TOWN shall pay FIRM in accordance with Exhibit "B", "Fee Schedule", which is attached hereto and incorporated by reference as part of this Agreement. The fee schedule identifies all job classifications, which will perform billable services pursuant to this Agreement and the fee for each job classification. Performance of work by personnel in job classifications not listed on the fee schedule will result in nonpayment for such services. Invoices shall be in sufficient detail to identify each job classification involved, number of hours and description of work.

3.1.3 Compensation may be negotiated as a not to exceed price on a per-project basis, on each individual Work Authorization.

3.1.4 Invoices must reference the applicable Work Authorization number.

3.1.5 Each individual invoice shall be due and payable forty-five (45) days after receipt by the TOWN of correct, fully documented, invoice, in form and substance satisfactory to the TOWN with all appropriate cost substantiations attached. All invoices shall

be delivered to:

Town of Edisto Beach
2414 Murray Street
Edisto Beach, SC 29438
Attention: Budget/Finance Analyst

3.1.6 In order for both parties herein to close their books and records, the FIRM will clearly state "Final Invoice" on the FIRM's final/last billing to the TOWN. This certifies that all services have been properly performed and all charges and costs have been invoiced to the TOWN. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the FIRM.

3.1.7 Payment of the final invoice shall not constitute evidence of the TOWN's acceptance of the work.

3.1.8 Invoices shall be accompanied by time and task records for all billable hours appearing on the invoice. Additional documents may be requested by TOWN and, if so requested, shall be furnished by FIRM to TOWN's satisfaction.

3.1.9 Project manager or designated payroll officer shall, by affidavit, attest to the correctness and accuracy of time charges and requested reimbursements.

3.2 Reimbursable

3.2.1 Mileage shall be reimbursed in accordance with IRS for pre-approved out-of-Town travel

3.2.2 Reimbursable Expenses, including subconsultants, shall be reimbursed at cost. Subconsultants shall be preapproved.

3.2.3 All assets, i.e. durable goods, purchased as reimbursable expenses become the property of the TOWN upon completion of the work for which the asset was utilized. All such assets must be surrendered by delivery to the Town of Edisto Beach upon demand, termination of the Agreement or the conclusion of the project, whichever occurs first.

3.2.7 FIRM shall maintain a current inventory of all such assets.

4.0 Insurance

4.1 General Provisions

4.1.1 FIRM shall maintain, at all times, the following minimum levels of insurance and shall, without in any way altering their liability, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below and provide the TOWN with a Certificate of Insurance and an opportunity to inspect a certified copy of each policy applicable to this Agreement followed thereafter by an annual Certificate of Insurance satisfactory to the TOWN to evidence such coverage before any work commences. Such certificates will provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days prior written notice to the TOWN.

4.1.2 The TOWN shall be named as an additional insured on all FIRM policies related to the project, excluding professional liability and worker's compensation. The policies shall contain a waiver of subrogation in favor of the Town of Edisto Beach. All insurance coverage shall be written with an insurer having an A.M. Best Rating not less than A:VII and licensed to operate in the State of South Carolina and the SC Department of Insurance. .

4.1.3 The FIRM's self-insured retention or deductible per line of coverage shall not exceed \$25,000.00 without the permission of the TOWN

4.1.4 Any failure by the FIRM to comply with the provisions of this section, the TOWN may, at its option, on notice to the FIRM, suspend the work for cause until there is full compliance.

4.1.5 TOWN may, at its sole discretion, purchase such insurance at FIRM's expense provided that the TOWN shall have no obligation to do so and if the TOWN shall do so, it shall not relieve FIRM of its obligation to obtain insurance.

4.1.6 The FIRM shall not be relieved of or excused from the obligation to obtain and maintain such insurance amount and coverages.

4.1.7 All FIRM's sub-contractors shall be required to include TOWN and FIRM as additional insured on their General Liability Insurance policies.

4.1.8 In the event that subconsultants used by the FIRM do not have insurance, or do not meet the insurance limits, FIRM shall indemnify and hold harmless the TOWN for any claim in excess of the subconsultants' insurance coverage.

4.1.9 The FIRM shall not commence work under this Agreement until

all insurance required as stated herein has been obtained and such insurance has been approved by the TOWN.

4.2 Comprehensive Automobile Liability Insurance. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles.

4.3 Commercial General Liability. \$1,000,000.00 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:

4.3.1 Premises and Operations:

Broad Form Commercial General Liability
Endorsement to include Blanket Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the firm);
Personal Injury (with employment and contractual exclusions deleted); and Broad Form Property Damage coverage.

4.3.2 Independent Contractors:

Delete Exclusion relative to collapse, explosion and underground; Property Damage Hazards; Cross Liability Endorsement; and Contractual liability (specifically covering, but not limited to, the contractual obligations assumed by the firm)

4.4 Umbrella (Excess) Liability Insurance. Umbrella Liability with limits of not less than \$1,000,000.00, exclusive of defense costs, to be in excess of all other coverages. Such coverage shall be at least as broad as the primary coverages above, with any excess umbrella layers written on a strict following form basis over the primary coverage. All such policies shall be endorsed to provide defense coverage obligations.

4.5 Professional Liability Insurance. \$1,000,000.00 for design errors and omissions, exclusive of defense costs. FIRM shall be required to provide continuing

Professional Liability Insurance to cover each project for a period of two (2) years after the project is completed. The TOWN may require the FIRM to provide a higher level of coverage for a specific project and time frame.

4.6 Performance, Payment and Other Bonds. FIRM shall furnish Performance and Payment Bonds specific to each project if required and agreed to under the Work Authorization for the project.

4.7 Workers Compensation. The FIRM shall provide, pay for, and maintain workers compensation insurance on all employees, its agents or subcontractors as required by S.C. Statutes.

\$500,000 Each Accident

\$500,000 Disease Each Employee

\$500,000 Disease Policy Limit

5.0 Standard of Care

5.1 FIRM has represented to the TOWN that it has the personnel and experience necessary to perform the work in a professional and workmanlike manner.

5.2 FIRM shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

5.3 FIRM shall, at no additional cost to TOWN, re-perform services which fail to satisfy the foregoing standard of care or otherwise fail to meet the requirement of this Agreement.

5.4 The FIRM warrants that all services shall be performed by skilled and competent personnel to the professional standards in the field.

6.0 Indemnification

6.1 General. Having considered the risks and potential liabilities that may exist during the performance of the Services and in consideration of the promises included herein, TOWN and FIRM agree to allocate such liabilities in accordance with this Section.

6.2 Indemnification.

6.2.1 FIRM, to the extent permitted by law, shall indemnify, defend (by counsel reasonably acceptable to TOWN) protect and hold TOWN, and its officers,

employee and agents, free and harmless from and against any and all, including, but not limited to, any claims, actions, causes of action, liabilities, penalties, forfeitures, damages, losses and expenses (including, without limitation, attorney's fees and costs during negotiation, through litigation and all appeals therefrom), or death of or injury to any person or damage to any property whatsoever, arising out of or resulting from (i) the failure of FIRM to comply with applicable laws, rules or regulations, (ii) the breach by FIRM of its obligations under this Agreement, (iii) any claim for trademark, patent or copyright infringement arising out of the scope of FIRM's performance of this Agreement, or (iv) the negligent act, errors or omissions, or intentional or willful misconduct, of FIRM, its sub-consultants, agents, employees and invitees; provided, however, that FIRM shall not be obligated to defend or indemnify the TOWN with respect to any such claims or damages arising out of the TOWN's negligence.

6.2.2 TOWN review, comment and observation of the FIRM's work and performance of this Agreement shall in no manner constitute a waiver of the indemnification provisions of this Agreement.

6.2.3 FIRM agrees that it bears sole legal responsibility for its work and work product, and the work and work product of subconsultants and their employees, and/or for FIRM's performance of this Agreement and its work product(s).

6.3 Survival. Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Agreement shall survive as if the Agreement were in full force and effect.

7.0 Independent Contractor

7.1 FIRM undertakes performance of the Services as an independent contractor and shall be wholly responsible for the methods of performance.

7.2 TOWN shall have no right to supervise the methods used, but TOWN shall have the right to observe such performance.

7.3 FIRM shall work closely with TOWN in performing Services under this Agreement.

7.4 The FIRM shall not pledge the TOWN's credit or make it a guarantor of

payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the TOWN in any manner.

7.5 FIRM further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

8.0 Authority to Practice

8.1 The FIRM hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

9.0 Compliance with Laws

9.1 In performance of the Services, FIRM will comply with applicable regulatory requirements including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria and standards.

10.0 Subcontracting

10.1 The TOWN reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor.

10.2 If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the FIRM shall promptly do so, subject to acceptance of the new subcontractor by the TOWN. Failure of a Subcontractor to timely or properly perform its obligations shall not relieve FIRM of its obligations hereunder.

11.0 TOWN's Responsibilities

11.1 TOWN shall be responsible for providing access to all TOWN project sites, and providing information in the TOWN's possession that may reasonably be required by FIRM, including; existing reports, studies, financial information, and other required data that are available in the files of the TOWN.

12.0 Termination of Agreement

12.1 If one party should breach or fail to perform any provision of this Agreement, then the other party may give written notice of such default (Notice of Default) to the breaching party. If the breaching party should fail to cure such default within thirty (30) days of notice thereof, the non-breaching party shall have the right to

terminate this Agreement by a second written notice (Notice of Termination) to the breaching party. If a Notice of Termination is sent to the breaching party, this Agreement shall automatically terminate on the effective date of such notice. Termination shall not relieve the breaching party of its obligation to pay all amounts due to the non-breaching party as of the effective date of termination and shall not impair any accrued rights, including the right to pursue all available legal remedies for damages, of the non-breaching party.

12.2 This agreement may at any time and for any reason be terminated by the TOWN at the TOWN'S convenience. Upon receipt of such notice, FIRM shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for work authorizations.

12.3 Unless the FIRM is in breach of this Agreement, the FIRM shall be paid for services rendered to the TOWN's satisfaction through the date of termination.

12.4 After receipt of a Termination Notice and except as otherwise directed by the TOWN, the FIRM shall:

12.4.1 Stop work on the date and to the extent specified.

12.4.2 Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

12.4.3 Transfer all work in process, completed work, and other material related to the terminated work to the TOWN.

12.4.4 Continue and complete all parts of the work that have not been terminated.

12.5 The FIRM shall be paid for services actually rendered to the date of termination.

13.0 Uncontrollable Forces (Force Majeure)

13.1 Neither the TOWN nor FIRM shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to

fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

13.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed or remedied with reasonable dispatch.

13.3 The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

14.0 Governing Law and Venue

14.1 This Agreement shall be governed in all respects by the laws of the State of South Carolina and any litigation with respect thereto shall be brought only in the Court of Common Pleas of Colleton County, South Carolina.

15.0 Non-Discrimination

15.1 The FIRM warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, gender, age or national origin.

16.0 Waiver

16.1 A waiver by either TOWN or FIRM of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

17.0 Severability

17.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.

17.2 Any void provision shall be deemed severed from the Agreement and the

balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

17.3 The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

17.4 The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

18.0 Entirety of Agreement

18.1 The TOWN and the FIRM agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.

18.2 This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the TOWN and FIRM pertaining to the Services, whether written or oral.

18.3 None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

19.0 Modification

19.1 The Agreement may not be modified unless such modifications are evidenced in writing signed by both TOWN and FIRM. Such modifications shall be in the form of a written Amendment executed by both parties.

20.0 Successors and Assigns

20.1 TOWN and FIRM each binds itself and its partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives.

20.2 FIRM shall not assign this Agreement without the express written approval of the TOWN by executed amendment.

20.3 In the event of a merger, the surviving corporation shall be substituted for the contracting party to this agreement and such substitution shall be affirmed by the Town

Council by executed amendment.

21.0 Contingent Fees

21.1 The FIRM warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the FIRM to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than bona fide employee working solely for the FIRM, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

22.0 Truth-In-Negotiation Certificate

22.1 Execution of this Agreement by the FIRM shall act as the execution of a Truth-in-Negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

22.2 The said rates and costs shall be adjusted to exclude any significant sums should the TOWN determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside firms. The TOWN shall exercise its rights under this Certificate within one (1) year following payment.

23.0 Ownership of Documents

23.1 FIRM shall be required to cooperate with other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information shall become the property of the TOWN for its use and/or distribution as may be deemed appropriate by the TOWN. FIRM is not liable for any damages, injury or costs associated with the TOWN use or distribution of these documents for purposes other than those originally intended by FIRM.

24.0 Access and Audits

24.1 FIRM shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Agreement. The TOWN shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours at the FIRM's place of business.

24.2 Misrepresentations of billable time or reimbursable expenses as determined by the Auditor to the TOWN shall result in the recovery of any resulting overpayments. The TOWN's cost of recovery shall be the sole expense of the FIRM, including accounting and legal fees, court costs and administrative expenses. 24.3

Intentional misrepresentations of billable hours and reimbursable expenses will be criminally prosecuted to the fullest extent of the law.

24.4 All invoices submitted are subject to audit and demand for refund of overpayment up to three (3) years following completion of all services related to this Agreement.

25.0 Notice

25.1 Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by Federal-Express or by Certified Mail, postage prepaid as follows:

As to TOWN:

Town of Edisto Beach

2414 Murray Street

Edisto Beach, South Carolina 29438

Attention: Town Administrator

As to FIRM:

25.2 Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either party by written notice to the other party. Facsimile transmission is acceptable notice effective when received, however, facsimile transmissions received (i.e.; printed) after 5:00 p.m., or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

25.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of FIRM and TOWN.

26.0 Service of Process

As to TOWN:

TOWN ATTORNEY
Town of Edisto Beach
PO Box 1215
Walterboro, SC 29488

As to FIRM:

27.0 Contract Administration

27.1 Services of FIRM shall be under the general direction of the Town Administrator, or his/her successor, who shall act as the TOWN’s representative during the term of the Agreement.

28.0 Key Personnel

28.1 FIRM shall notify TOWN in the event of key personnel changes, which might affect this Agreement. To the extent possible, notification shall be made within ten (10) days prior to changes. FIRM at TOWN’s request shall remove without consequence to the TOWN any Subcontractor or employee of the FIRM and replace him/her with another employee having the required skill and experience. TOWN has the right to reject proposed changes in key personnel. The following personnel shall be considered key personnel:

Name: _____

Name: _____

29.0 Annual Appropriations

29.1 FIRM acknowledges that the TOWN, during any fiscal year, shall not expend money, incur any liability, or enter into any agreement which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any agreement, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such agreement. Nothing herein contained

shall prevent the making of agreements for a period exceeding one year, but any agreement so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the TOWN's performance and obligation to pay under this agreement is contingent upon annual appropriation.

30.0 Liquidated Damages

30.1 The parties hereto agree that liquidated damages will be assessed against the FIRM for FIRM's failure to meet the final deliverable date in the Performance Schedule in the Scope of Work, but only to the extent and in proportion to FIRM's fault in causing the delay as compared to other causes, and to the extent the FIRM is not delayed by reasons beyond FIRM's reasonable control.

31.0 Unauthorized Alien(s)

31.1 The FIRM agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this Agreement. The TOWN shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the TOWN. The form "AFFIDAVIT CERTIFICATION IMMIGRATION LAWS" will be signed by the FIRM and submitted as part of the Agreement.

31.2 Employers may avail themselves of a program by the U.S. Immigration and Customs Enforcement called E-Verify. E-Verify is an Internet-based system operated by U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security (DHS), in partnership with the Social Security Administration (SSA). E-Verify is currently free to employers. E-Verify provides an automated link to Federal databases to help employers determine employment eligibility of new hires and the validity of their Social Security numbers.

31.3 If your company wishes to avail themselves of this program, you can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>, which provides instructions for completing the registration process. At the end of the registration process, you will be required to sign a Memorandum of Understanding (MOU) that provides the terms of

agreement between you as the employer, the SSA, and DHS. An employee who has signatory authority for the employer can sign the MOU. Employers can use their discretion in identifying the best method by which to sign up their locations for E-Verify. To find out more about E-Verify, please visit www.dhs.gov/e-verify or contact USCIS at **1-888-464-4218**.

(THE REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

Attest:

By: _____

By: _____

Jane S. Darby, Mayor

Date Approved by COUNCIL: _____

Review as to form and legal sufficiency

TOWN Attorney's Office Date

Attest:

COMPANY

By: _____

Corporate Secretary

_____ **[Print Name]**

_____ **[Title]**

DATE: _____