

SE-240**SMALL PROFESSIONAL SERVICES CONTRACT TERMS AND CONDITIONS**

AGENCY: Francis Marion University

PROJECT NAME: Stormwater Drainage Improvements

PROJECT NUMBER: H18-N079-MJ

A/E NAME: J.M.T. Johnson, Mirmiran & Thompson, Inc.

ADDRESS: 235 Magrath Darby Boulevard, Suite 275, Mt. Pleasant, SC 29464

In consideration of the mutual covenants and obligations set forth herein, the Agency and A/E (hereinafter jointly referred to as the "parties") agree to the following Terms and Conditions as they apply to the Contract for the project listed above.

A. CONTRACT DOCUMENTS

1. Documents forming a part of this contract are, in order of precedence:
 - a. These Terms and Conditions, SE-240.
 - b. A/E Proposal describing services to be provided for this project, the associated hourly billing rates for the A/E and the A/E consultants, and the projected Reimbursable items.
 - c. Supplemental Conditions, attached if applicable.
 - d. The following other documents:

2. The contract is the entire and integrated agreement between the parties and supersedes prior negotiations, representations, or agreements, whether written or oral.
3. The Agency's Budget for the Cost of the Work: \$820,000

The Cost of the Work shall be the total cost to the Agency to construct all elements of the Project designed or specified by the A/E and shall include Contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Agency. The Cost of the Work does not include the compensation of the A/E, the costs of the land, rights-of-way, financing, contingencies for changes in the Work, or other costs that are the responsibility of the Agency.

B. REPRESENTATIVES**1. Agency's Representatives**

Agency designates the individual listed below as its Representative, which individual shall have the authority to bind the Agency with respect to all matters regarding the Contract and requiring the Agency's approval or authorization:

NAME: Benjamin Blanks Jr.

TITLE: Director of Facilities Support

ADDRESS: PO Box 100547, Florence, SC 29502

TELEPHONE: 843.260.1886 **EMAIL:** benjamin.blanks@fmarion.edu

The term "Agency" means the Agency or the Agency's Representative.

2. A/E's Representatives

A/E designates the individual listed below as its A/E's Representative, which individual shall have the authority to bind the A/E with respect to all matters regarding the Contract and requiring the A/E's approval or authorization:

NAME: James K. O'Connor

TITLE: Vice-President

ADDRESS: 235 Magrath Darby Boulevard, Suite 275, Mt. Pleasant, SC 29464

TELEPHONE: 843.779.3700 **EMAIL:** joconnor@jmt.com

The term "A/E" means the A/E or the A/E's Representative.

3. Neither the Agency nor the A/E shall change their representatives without ten days written notice to the other party.

C. A/E RESPONSIBILITIES

1. The A/E shall provide professional services as set forth in this Contract consistent with the professional skill and care ordinarily provided by A/E's practicing in the same or similar locality region under the same or similar circumstances.
2. The A/E represents that its' team is properly licensed in the jurisdiction where the Project is located to provide the services required.

D. INSURANCE

1. The A/E shall procure and maintain in effect during the term of this Contract the insurance coverages described below, which insurance shall be placed with insurance companies authorized to do business in the State of South Carolina and rated A minus VII or better by the current edition of Best's Key Rating Guide or otherwise approved by the Agency.
 - a. Professional Liability Insurance with limits of not less than \$1,000,000 per claim and in the aggregate. A/E shall maintain this coverage in effect during the term of this Contract and for five (5) years after the date of completion of services provided under this Contract. A/E shall give prompt written notice to Agency of all claims made against this policy during the period in which this policy is required to be maintained.
 - b. Worker's Compensation Insurance as required by the State of South Carolina with statutory limits.
 - c. Employers' Liability Insurance with limit of no less than \$1,000,000 per accident.
 - d. Automobile Liability Insurance: Insurance Services Offices (ISO) Form CA 00 01 covering Code 1 (any auto), or if A/E has an owned automobiles, Code 3 (hired) and Code 9 (non-owned), with limits not less than \$1,000,000 per accident for bodily injury and property damage.
 - e. Commercial General Liability Insurance (CGL): ISO Form CG 00 01 12 07 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury, and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the required occurrence limit. This Contract shall be considered to be an "insured contract" as defined in the policy.
2. The A/E agrees to require Consultants to comply with the insurance provisions required of A/E pursuant to this Contract unless A/E and Agency mutually agree to modify these requirements for Consultants whose work is of relatively small scope. The A/E agrees that it will contractually obligate its Consultants to advise A/E promptly of any changes or lapses of the requisite insurance coverages and A/E agrees to promptly advise Agency of any such notices A/E receives from its Consultants. The A/E agrees that it will contractually obligate its Consultants to indemnify and hold harmless the Agency to the same extent that the A/E is required to do so as provided in this Contract.
3. The A/E shall provide certificates of insurance to the Agency that evidence compliance with the requirements in this Section.
4. Additional Insured Obligations
 - a. To the fullest extent permitted by law, the A/E shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Agency, its officers, officials, employees, and volunteers, as additional insureds for claims caused in whole or in part by the A/E's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Agency's insurance policies and shall apply to both ongoing and completed operations.
 - b. Prior to performing services, and thereafter upon replacement of each required policy of insurance, the A/E shall provide to the Agency a written endorsement to the A/E's General Liability Insurance policy that (i) names the Agency, its officers, officials, employees, and volunteers, as additional insureds, and (ii) states that coverage shall not be cancelled, except with notice to the Agency.
 - c. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the A/E with reasonable promptness.

E. INDEMNIFICATION

1. Without limitation and notwithstanding any provision in this Contract, the A/E shall indemnify and hold harmless the Indemnitees for and against claims, damages, losses and expenses (including attorneys' fees) asserted by a third party against an Indemnitee arising out of or resulting from negligent acts or omissions of the A/E, a consultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself). The A/E shall not be required to indemnify an Indemnitee to the extent the Indemnitee's damages result from the Agency's own negligence.

2. Such obligation shall not be construed to negate, abridge, or reduce any other rights, including any other obligations of indemnity, which would otherwise exist as to a party or person described in this Section As used in this paragraph, "Indemnitees" means the State (including its instrumentalities, agencies, departments, boards, and political subdivisions), the contractor, the subcontractors at all tiers, and the officers, agents and employees of all the foregoing.

F. A/E SERVICES

1. The A/E shall be fully responsible for coordinating all services under this Contract regardless of whether performed by its own employees or by consultants hired by A/E to perform a portion of its' services.
2. The A/E shall be responsible to Agency for the services furnished to A/E by any Subconsultant to the same extent as if A/E had furnished the service itself. A/E also agrees to coordinate and resolve any inconsistencies in its work and the work of its Consultants. All of A/E's contracts with Consultants shall be in writing, signed by both parties, and shall include the following provision: "The Agency is intended to be a third-party beneficiary of this Contract."
3. In the performance of its duties under this Contract, the A/E shall comply with the requirements of Chapter 5 of the Manual for Planning and Execution of State Permanent Improvement Projects (the "Manual").
4. The A/E shall prepare and distribute conference memoranda, meeting minutes, summaries of telephone conversations, documentation of site visits and inspection reports as required by the Agency to maintain a comprehensive record of the Project. The State's Project Number and Name shall be shown on all documents.
5. Any reference in the Contract Documents to the A/E taking action or rendering a decision with a "reasonable time" or "reasonable promptness" is understood to mean no more than ten (10) days, unless otherwise specified in the Contract Documents or otherwise agreed to by the parties.
6. Construction Documents
 - a. The A/E shall submit to the Agency and OSE for review and approval, properly completed documents in the number and form requested, additional documentation required by the Design Documents Transmittal Form and an estimate of the Cost of the Work with each submittal. The A/E shall advise the Agency of any adjustments to the estimate of the Cost of the Work and request the OSE and Agency's approval.
 - b. Based on the Agency's approval of design documents, OSE's comments, if any, and on the Agency's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the A/E shall prepare Construction Documents for the Agency's approval. The Construction Documents shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work.
 - c. The Agency and OSE review and approval of each submittal and all documents or other matters required herein shall not relieve the A/E of their professional duty of care in the preparation of the Instruments of Service for compliance with the requirements of applicable statutes, regulations, codes, the Manual, or for design deficiencies, omission, or errors.
7. Construction Phase Services
 - a. The A/E shall provide administration of the Contract between the Agency and the Contractor as set forth in the General Conditions of the Contract for Construction.
 - b. The A/E shall advise and consult with the Agency during the Construction Phase Services. The A/E shall be responsible for the A/E's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.
 - c. The A/E's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates twenty-one (21) days after the A/E issues the final Certificate for Payment.
 - d. The A/E shall visit the site at intervals appropriate to the stage of construction to determine, in general, if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The A/E shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The A/E shall submit a written report to the Agency, and promptly report to the Agency (1) deviations from the Contract Documents, (2) deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies in the Work.
 - e. The A/E has the authority to reject Work that does not conform to the Contract Documents. Whenever the A/E considers it necessary or advisable, the A/E shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether the Work is fabricated, installed or completed.
8. Contractor Certificates for Payment
 - a. The A/E shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The A/E's certification for payment shall constitute a representation to the Agency, based on the A/E's evaluation of the Work and on the data comprising the Contractor's Application for Payment, that, to the best of the A/E's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

- b. The issuance of a Certificate for Payment shall not be a representation that the A/E has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Agency to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
9. Contractor Submittals
- a. The A/E's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness.
 - b. The A/E shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
 - c. The A/E shall review and respond to requests for information about the Contract Documents. The A/E's response to such requests shall be made in writing with reasonable promptness. If appropriate, the A/E shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.
10. Changes in the Work
- a. The A/E may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time.
 - b. The A/E shall prepare Change Orders and Construction Change Directives, with supporting technical data and cost documentation supplied by the Contractor, for the Agency's approval and execution in accordance with the Contract Documents.
11. Project Completion
- a. As required by the project, the A/E shall:
 - i. conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
 - ii. issue Certificates of Substantial Completion;
 - iii. forward to the Agency, for the Agency's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
 - iv. issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the A/E's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.
 - b. The A/E and the A/E's consultants and engineers shall conduct one Substantial Completion Inspection and one Final Completion Inspection. If additional inspections are required, payment to the A/E may be adjusted.
 - c. When Substantial Completion has been achieved, the A/E shall inform the Agency about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.
12. Additional Services
- a. The A/E may provide Additional Services after execution of this Contract without invalidating the Contract. Except for services required due to the fault of the A/E, any Additional Services provided shall entitle the A/E to compensation pursuant to negotiations and an appropriate adjustment in the A/E's schedule.
 - b. The A/E shall not proceed to provide Additional Services until the A/E receives the Agency's written authorization.

G. AGENCY'S RESPONSIBILITIES

1. The Agency shall establish the Agency's budget for the Project, including (1) the budget for the Cost of the Work; (2) the Agency's other costs; and, (3) reasonable contingencies related to these costs. The Agency shall update the Agency's budget for the Project as necessary throughout the duration of the Project until final completion. If the Agency significantly increases or decreases the Agency's budget for the Cost of the Work, the Agency shall notify the A/E of such change and of any corresponding changes in the Project's scope and quality.
2. The Agency shall review the A/E's documents and the estimate of Cost of the Work and shall submit its written approval to the A/E and OSE, if required.
3. The Agency shall provide prompt written notice to the A/E if the Agency becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the A/E's Instruments of Service.
4. The Agency shall include the A/E in all communications with the Contractor that relate to or affect the A/E's services or professional responsibilities. Communications by and with the A/E's consultants shall be through the A/E.

II. COST OF THE WORK

1. The Agency's budget for the Cost of the Work may be adjusted throughout the Project. It is recognized, that neither the A/E nor the Agency has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the A/E cannot and does not warrant or represent that bids or negotiated prices will not vary from the Agency's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the A/E.
2. If at any time the A/E's estimate of the Cost of the Work exceeds the Agency's budget for the Cost of the Work, the A/E shall, at no additional cost, make appropriate recommendations to the Agency to adjust the Project's size, quality, or budget for the Cost of the Work, and the Agency shall cooperate with the A/E in making such adjustments.
3. If the Agency's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid, the Agency may:
 - a. if and as permitted by applicable law, give written approval of an increase in the budget for the Cost of the Work and award the contract within the revised budget;
 - b. cancel the invitation for bids and reissue it, without change in the Project program, scope, or quality, not less than ninety (90) days after the date bids were opened;
 - c. cancel the invitation for bids and terminate this Contract in accordance with Section K;
 - d. cancel the invitation for bids; in consultation with the A/E, revise the Project program, scope, or quality as required to reduce the Cost of the Work and reissue the invitation for bids with Construction Documents so revised; or,
 - e. negotiate a contract with the lowest responsive and responsible bidder pursuant to S.C. Code Ann. § 11-35-3020(d).
4. If the Agency chooses to proceed under Section H.3.a or H.3.b, the A/E shall not receive additional compensation for the increase in budget or delay in rebidding.
5. If the lowest bona fide bid exceeds the Agency's budget for the Cost of the Work by more than ten (10) percent and the Agency chooses to proceed under Section H.3.d, the A/E shall modify the Construction Documents as necessary to comply with the Agency's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or as adjusted. If the Agency requires the A/E to modify the Construction Documents because the lowest bona fide bid exceeds the Agency's budget for the Cost of the Work due to market conditions the A/E could not reasonably anticipate, the Agency shall compensate the A/E for the modifications as an Additional Service; otherwise the A/E's services for modifying the Construction Documents shall be without additional compensation and the A/E shall be responsible for all its costs associated with the redesign and rebidding of the Project, including the reproduction of revised documents and fees for any new or revised permits based on the revised plans. In any event, the A/E's modification of the Construction Documents shall be the limit of the A/E's responsibility under this Section.
6. If the lowest bona fide bid exceeds the Agency's budget for the Cost of the Work by less than ten (10) percent, and the Agency chooses to proceed under Section H.3.e, the A/E shall, without additional charge to the Agency, assist in negotiations to reduce the bid to an amount within the Agency's budget for the Cost of the Work, but not more than 10% below the Agency's budget for the Cost of the Work. In such case, the A/E shall not be entitled to additional compensation for any effort or additional work necessary to bring the contract within the Agency's budget for the Cost of the Work.

I. INSTRUMENTS OF SERVICE

1. The A/E and the A/E's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the A/E and the A/E's consultants.
2. The A/E grants to the Agency a perpetual, irrevocable, non-exclusive license to use and authorize others to use, at any time and in any manner, the A/E's Instruments of Service for purposes including, but not limited to, of constructing, using, maintaining, altering and adding to the structures which are the subject of the Instruments of Service at the general location of the site of Project, and for any other use required by law. The A/E shall obtain and provide to the Agency licenses from the A/E's consultants that have terms identical to those that obligate the A/E to the Agency as expressed above in this Section.
3. In the event the Agency uses the Instruments of Service without retaining the authors of the Instruments of Service, the Agency releases the A/E and A/E's consultant(s) from all claims and causes of action arising from such uses. The Agency, to the extent permitted by law, further agrees to waive any claims against the A/E and its consultants for all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Agency's use of the Instruments of Service under this Section. The terms of this Section shall not apply if the Agency rightfully terminates this Contract for cause.

J. CLAIMS AND DISPUTE RESOLUTION

1. Both parties shall attempt to resolve disputes through good faith negotiations.
2. All disputes, claims, or controversies relating to the Contract, that cannot be resolved through good faith negotiations between the parties shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. A/E agrees that any act by the State regarding the Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used herein, the phrase, "the State" includes the Agency and the State Fiscal Accountability Authority.
3. A/E consents that any papers, notices, or process necessary or proper for the initiation or continuation of any claims or controversies relating to the Contract; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on A/E by certified mail (return receipt requested) addressed to A/E at the address provided for the A/E's Representative or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed delivered three (3) business days after deposit, postage prepaid, in the United States mail.
4. The A/E and Agency waive claims against each other for listed damages arising out of or relating to this Contract.
 - a. For the Agency, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) costs suffered by a third party unable to commence work, (vi) attorney's fees, (vii) any interest, except to the extent allowed by Section M.6, (viii) lost revenue and profit lost use of the property, (ix) costs resulting from lost productivity or efficiency.
 - b. For the A/E, listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) attorney's fees, (vi) any interest, except to the extent allowed by Section M.6, (vii) unamortized equipment costs; and (viii) losses incurred by the A/E's consultants for the types of damages the A/E has waived as against the Agency.
5. The A/E waives all claims against the Contractor and any of the Contractor's subcontractors (at any tier) for listed damages arising out of or relating to this Contract. The listed damages are (i) lost revenue and profit, (ii) losses resulting from injury to business or reputation, (iii) additional or escalated overhead and administration expenses, (iv) additional financing costs, (v) attorney's fees, (vi) interest, (vii) unamortized equipment costs; and (viii) losses incurred by the A/E's consultants for the types of damages the A/E has waived as against the Contractor. This mutual waiver is not applicable to amounts due or obligations under Section E (Indemnification).
6. Continuation of Work: Pending resolution of a claim or dispute, the A/E shall proceed diligently with the performance of its services under this Contract, and Agency shall continue to make payments in accordance with this Contract for all services rendered by A/E which are not the subject of the claim or dispute.

K. TERMINATION OR SUSPENSION

1. Agency Right of Suspension:
 - a. The Agency may, at any time, suspend the work, in whole or in part, with or without cause for such period of time as determined by the Agency. The A/E shall be compensated for services performed prior to notice of such suspension, except in the event of suspension due to a default of the A/E.
 - b. When the Work, in whole or in part, is resumed, the remaining amount payable to the A/E may be equitably adjusted to reflect reasonable costs actually incurred by the A/E due to delay or interruption resulting from such suspension.
 - c. If the suspension exceeds ninety (90) consecutive days, the A/E's fees for the remaining services and the time schedules shall be equitably adjusted.
2. Agency Right of Termination:
 - a. Termination for Cause: If the A/E defaults, persistently fails or neglects to perform the services in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Agency shall provide written notice of such default, failure, or neglect to the A/E. If the A/E fails to cure such default, failure, or neglect within ten (10) days from receipt of the Agency's notice, the Agency may, without prejudice to any other right or remedy the Agency may have, terminate the Contract.
 - b. Termination for Convenience: The Agency may, for its convenience, terminate all or any portion of the work or terminate this Contract by ten (10) days written notice stating the effective date of the termination. Thereafter, the Agency shall pay the A/E for those services actually performed before the date of termination. No payments shall be made for services not actually performed, and no payment shall be made or due for lost profits for portions of the services not actually performed.

3. A/E Right of Termination:

- a. The A/E may terminate the contract if work is stopped through no fault of the A/E, or other persons performing work either directly or indirectly for the A/E, for a period of time exceeding sixty (60) consecutive calendar days due to a court order or other public authority having jurisdiction; or a declared National emergency which requires the work to be stopped.
 - b. Agency Failure to Make Payment: Subject to the Agency's right to withhold payments pursuant to Section M, if the Agency fails to make payments to the A/E as set forth in Section M and any other applicable provisions of the Contract Documents, the A/E may, upon fourteen (14) days prior written notice to the Agency, terminate the Contract and recover from the Agency payment for all services performed, including reasonable overhead, profit and damages applicable to the services performed through the date thereof.
4. In the event of suspension or termination for convenience, upon request of Agency and payment of all fees pursuant to this Section, A/E shall promptly provide Agency with all documents completed or in progress on the date of termination, on computer tapes or disks. The Agency's rights to use the A/E's Instruments of Service in the event of a termination of this Contract are set forth in the Contract.

L. MISCELLANEOUS PROVISIONS

1. **Governing Law:** The Contract, any dispute, claim, or controversy relating to the Contract, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules.
2. This Contract is formed pursuant to and governed by the South Carolina Consolidated Procurement Code and is deemed to incorporate all applicable provisions thereof and the ensuing regulations.
3. **Severability:** If it is determined that any provision of the Contract violates any law, or is otherwise invalid or unenforceable, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted. In such case the Contract shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.
4. **Economic Conflict of Interest:** An A/E shall not have or exercise any official responsibility regarding a public contract in which the A/E, or a business with which he is associated, has an economic interest. A person working for an A/E shall not have or exercise any official responsibility regarding a public contract in which the person, an individual with whom he is associated, or his family members have an economic interest. If an A/E is asked by any person to violate, or does violate, either of these restrictions, the A/E shall immediately communicate such information to the procurement officer. The state may rescind, and recover any amount expended as a result of, any action taken, or contract entered in violation of this provision. The terms "business with which he is associated," "economic interest," "family member," "immediate family," "individual with whom he is associated," "official responsibility" and "person" have the meanings provided in S.C. Code Ann. § 8-13-100.
5. **Drug-Free Workplace:** The A/E must comply with the Drug-Free Workplace Act, S.C. Code Ann. §§ 44-107-10, et seq. The A/E certifies to the Agency that A/E will provide a Drug-Free Workplace, as defined by S.C. Code Ann. §§ 44-107-20(1).
6. **False Claims:** According to SC Code § 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.
7. **Non-Indemnification:** It is unlawful for a person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations per S.C. Code Ann. § 11-9-20. It is unlawful for an authorized public officer to enter into a contract for a purpose in which the sum is in excess of the amount appropriated for that purpose. It is unlawful for an authorized public officer to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of an indebtedness contracted or incurred for a previous year per S.C. Code Ann. § 11-1-40.
8. **Assignment:** The Agency and A/E, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Contract. Neither the Agency nor the A/E shall assign this Contract without the written consent of the other. S.C. Code Ann. Reg. 19-445.2180 provides as follows: "No State contract is transferable, or otherwise assignable, without the written consent of the Chief Procurement Officer, the head of a purchasing agency, or the designee of either; provided, however, that a contractor may assign monies receivable under a contract after due notice from the contractor to the State."
9. **Force Majeure:** In the event A/E is hindered, delayed or prevented from performing its obligations under this Contract as a result of any fire, flood, landslide, tornado or other act of God, malicious mischief, theft, strike, lockout, other labor problems, shortages of material or labor, or any other cause beyond the reasonable control of A/E, the time for completion of A/E's work shall be extended by the period of resulting delay.

10. Open Trade Representation: By signing this Contract, A/E represents that A/E is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code § 11-35-5300. During the contract term, including any renewals or extensions, A/E will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code § 11-35-5300.

M. COMPENSATION

1. The Agency shall compensate the A/E for the services rendered as described in the Contract Documents in Section A. The A/E may make application for payment for services performed on a monthly basis. The Agency shall make payments to the A/E of undisputed amounts due for services performed by the A/E, within twenty-one (21) days of receipt of the A/E's invoice. The A/E shall make progress payments to the consultants within seven (7) days of the receipt by the A/E of each payment from the Agency.
2. The Agency shall compensate the A/E for Additional Services that may arise during the course of the Project by negotiated Amendment to this contract. The hourly billing rates to be used to negotiate additional services by the A/E and the A/E's consultants shall be included as an attachment referenced in Section A.
3. When any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The A/E shall be entitled to compensation in accordance with this Contract for all services performed whether or not the Construction Phase is commenced.
4. The Agency shall compensate the A/E for Reimbursable Expenses described in the Contract Documents referenced in Section A as a not-to-exceed amount. The compensation shall be the actual costs incurred by the A/E and the A/E's consultants. The A/E and the A/E's consultants shall be allowed a reasonable markup not to exceed 10% for administrative cost related to Reimbursable Expenses.
5. Unless authorized in writing by the Agency prior to incurring the expense, no expense for transportation, travel, or subsistence will be reimbursable to the extent the expense exceeds the amount for which a state employee would be reimbursed under the Travel Regulations. Travel Regulations means the State Fiscal Accountability Authority's Regulations for Reimbursement for Travel and Subsistence Expenses, Disbursement Regulations pdf found at [<https://sz.sc.gov/guidance-and-forms-state-agencies/cas-accounting-policies-and-procedures>]. There shall be no charge for time spent in travel.
6. Progress Payments: Payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the A/E's invoice. Payments due to the A/E and unpaid under this Contract shall bear interest only if and to the extent allowed by S.C. Code Ann. §§ 29-6-10 through 29-6-60. Amounts due to the Agency shall bear interest at the rate of one percent a month or a pro rata fraction thereof on the unpaid balance as may be due.
7. The Agency shall not withhold amounts from the A/E's compensation to impose a penalty.

AGENCY:

BY: 

(Signature of Representative)

PRINT NAME: Benjamin Blanks, Jr.

PRINT TITLE: Director of Facilities Support

DATE: 21 Sept 2021

A/E:

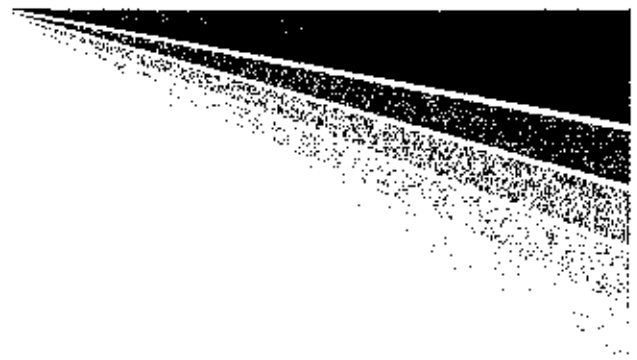
BY: 

(Signature of Representative)

PRINT NAME: James K. O'Connor

PRINT TITLE: Vice President

DATE: 9/15/21



July 30th, 2021; Rev. September 17th, 2021

Benjamin Blanks, Jr.
Director of Facilities Support
P.O. Box 100547
Florence, SC 29502

RE: Francis Marion University Drainage Improvements
JMT Project # 21-01560

Mr. Blanks:

JMT is pleased to submit this scope and fee to perform engineering services associated with the drainage improvements required at the Francis Marion University in Florence, SC.

Project Understanding

We understand that Francis Marion University would like to engage JMT to prepare plans and specifications for drainage improvements for the six problem areas outlined in the preliminary engineered report (PER) conducted by AECOM. As part of these project, our team will provide surveying services including locating any grand trees in the vicinity. Based on conversations with Woody Powell, the stormwater engineer at the County, we are anticipating that this project will be considered a larger common plan of development and will require coverage under the state's general NPDES permit. It is anticipated that stormwater management facilities will be required to meet the requirements of Florence County's Stormwater Regulations.

In addition, JMT will conduct a wetland delineation within the project study area (Area 5 and Area 6, Figure 1). JMT will delineate all aquatic resources identified within the project study area. Aquatic resources will be identified and either jurisdictional or excluded waters, per the US Army Corps of Engineers (USACE) and US Environmental Protection Agency (USEPA) 2020 Navigable Waters Protection Rule. If accepted by the USACE, federal jurisdiction will only be asserted over aquatic features that are deemed jurisdictional features (rivers, tributaries, wetlands, etc.) and will be excluded from non-jurisdictional features (ditches, stormwater control features, artificial ponds, etc.). An Approved Jurisdictional Determination/Delineation package will be submitted to the USACE by JMT (authorized agent) on behalf of Francis Marion University.

Proposed Scope

Following is a summary of scope of services for this project:

I. SURVEYING SERVICES

- A. Our subcontractor, IPW Construction Group, LLC, will provide surveying services to include providing conventional topographic mapping prepared in conformity with the South Carolina minimum standards for Land Surveys. The topographic mapping will include a conventional survey plotted at one-foot contour intervals, with all spot elevations to the nearest 0.01', including the location of existing structures, above ground visible evidence of utilities and other features. For storm and sanitary structure, rim and invert elevations will be shown

along with pipe size and material. The topographic information shall also include all of the area as shown on the exhibit provided. Two on site benchmarks will be provided and shown on the survey. The horizontal datum to be used for the project will be SC NAD 83/ NSRS 2011. Vertical datum for the topographic survey will be based on NAVD '88. The planimetric portion will also include the locations of buildings, with finished floor elevations, fences, pavements, with type (i.e., asphalt, concrete), striping and traffic control markers, curb and gutter, including edge of asphalt, flow line, and back of curb, walls, and signage with indications as to what the type of sign is. Water bodies will include a water surface elevation and break line information such as top/toe of slopes. Planimetric portion will also include all curb cuts and entrances on adjoining parcels adjacent to the survey limits.

- B. Our services will include the location, size, and species of all grand trees regulated by the municipality.

II. SITE CIVIL ENGINEERING SERVICES

The following scope is broken down by work associated with each of the six areas as outlined in the preliminary engineering report. The pipe sizes and length below are anticipated based on the information in the PER. The exhibit from this report is attached to this scope.

- A. Area 1 -- Stokes Administration Parking Lot: Work will include removing existing pipe and replacing with larger diameter pipes. A total of 450LF of 18" reinforced concrete pipe (RCP) and 514 LF of 24" RCP.
- B. Area 2 -- Alumni Dr. (Northern Section): Work will include removing existing pipe and replacing new pipe in the grassy median of the road to keep away from tree roots. The existing pipe will be replaced with 196 LF of 18" RCP, 269 LF of 24" RCP and 764 LF of 36" RCP.
- C. Area 3 -- Alumni Dr. and Heyward Dr.: Work will include Removing existing undersized pipe and replace with 60LF of 18" RCP and 245LF of 24" RCP.
- D. Area 4 -- Tennis Courts Entrance: Work will include addition of 81LF of 18" RCP and an additional drainage inlet.
- E. Area 5 -- Access Road and Wallace Woods Road: The current stormwater pipes are sized correctly for their respective drainage area but the area still floods. The ditch below the outfall will be rehabilitated and reshaped to handle more capacity from the stormwater system which outfalls to the Middle Branch Creek.
- F. Area 6 -- Forest Villas Apartments: The plans will include maintenance information for the contractor to clean out the existing detention basin and restore it to its original working condition. The ditch below outfall 4 will be cleaned and reshaped to its original capacity. The southernmost drainage inlet will be part of the maintenance and reconstruction in this area.

Civil Engineering Design

- A. For the project areas outlined above, JMT will perform the following tasks for project

initiation:

1. Identify and review project parameters, goals and objectives, and list issues and concerns to be addressed during the design process.
 2. Review project base mapping as provided by the owner, identify any areas of concern, and determine if additional supplemental topographic survey is required.
 3. Compile, review, and verify existing information regarding the existing site as provided by the Owner.
- B. JMT will perform the following tasks for schematic design:
1. Utilize the boundary and topographic survey information provided by the surveyor in preparation of the project base map.
 2. Verify County land development criteria for planning, drainage, and water quality, stormwater management and indicate specific approval processes required.
 3. Prepare a conceptual plan of the project work area depicting preliminary layout and details for the desired improvements.
 4. Utilize the conceptual plan for developing preliminary site grading and drainage plans.
 5. Prepare a summary of the permit process and approval process and outline additional studies that may be required as part of the planning and development process.
 6. Present the preliminary design to the Owner for input.
- C. JMT will perform the following tasks for design development:
1. Utilize the approved schematic design plan as the basis for the Design Development Plans.
 2. Create Design Development drawings to include:
 - a) General Notes Sheet: Showing the title and location of the project along with site related data and notes, general plan notes, and certifications by the Owner, Consultant, and County officials.
 - b) Existing Conditions / Demolition Plan: Depicting the overall project area, its boundaries, names, and locations of adjacent property owners, existing natural and manmade features within the property, and land contours. This sheet will also indicate existing features to be removed and features/ areas to be preserved and protected, such as grand trees.
 - c) Drainage Improvements / Grading Plan: Indicating the existing and proposed final grades and detail flagging. This plan will also depict the locations of the proposed inlets and stormwater conveyance facilities.
 - d) Utility Profiles (if necessary): Indicating the horizontal and vertical locations of the proposed storm sewers. The plans will also depict the top of rim/grate and invert elevations of the utilities.
 - e) Detail Sheet(s): Illustrating the construction and installation details for the proposed facilities.
 - f) Storm Water Pollution Prevention Plan (SWPPP) Sheets: Indicating erosion control measures to be utilized during construction in accordance with the criteria established by DHEC and the County. These sheets will also include details and any necessary operation and maintenance requirements and procedures.
 - g) Construction Stakeout Plan: Locating the proposed facilities for stakeout in the field. (Stakeout to be accomplished by others and not part of this proposal)
 3. Prepare technical construction specifications which are anticipated to be included on the plans.
 4. Verify conflicts with any proposed or existing site features.

5. Prepare storm drainage plans for conveyance systems (swales, pipes, etc.) based on the requirements of Florence County. It is anticipated that additional stormwater measures will be required as part of the County's requirements (Raingardens, ponds, vegetated swales, etc.)
- D. JMT will perform the following tasks to verify Hydraulic / Engineering Design:
1. Perform site investigation to confirm drainage patterns and existing drainage systems.
 2. Develop existing and proposed conditions hydraulic model based on the requirements of Florence County.
- E. JMT will perform the following tasks to create construction documents:
1. Revise Design Development Plans based upon comments received from the Owner (Two owner reviews are assumed for this scope item)
 2. Prepare bid-ready set of plans and technical specifications.

Civil Permitting

- A. Civil permitting on this project will consist of a NPDES permit through DHEC and a land disturbance through Florence County. Discussions with the Florence County Engineer confirmed that these improvements would be considered part of a larger common plan of development which is why any NPDES permit for this work will be required. Work for this permit will consist of the following:
1. Preparation and submission of C-SWPPP Report, including a Hydraulic and Hydrological report and calculations.
 2. Stormwater BMP design, as needed, for water quality and rate control in accordance with the MS4 regulations. Upsizing the pipes will increase the peak flow rates and the County has stated that any work will need to consider additional options to help maintain the existing peak rate runoff. This may include things like raingardens or vegetated swales or a reduction in overall impervious surfaces.
 3. Prepare and submit Stormwater Construction Approval Application to Florence County

III. ENVIRONMENTAL PERMITTING SERVICES

Wetland Determination/Delineation

A. Area 5- Access Road and Wallace Woods Road

1. JMT will conduct a wetlands delineation within the project area in accordance with the standards currently employed by the USACE (a.k.a. the Atlantic and Gulf Coastal Plain Regional Supplement to the Corps of Engineers Wetland Delineation Manual).
2. Boundaries of any aquatic features which meet the standards above, as well as streams with high water and bend-and-bank, will be sequentially flagged or pin-flagged and horizontally located with a sub-meter GPS.

B. Area 6 – Forest Villas Apartments

1. JMT will conduct a wetlands delineation within the project area in accordance with the standards currently employed by the USACE (a.k.a. the Atlantic and Gulf Coastal

- Plain Regional Supplement to the Corps of Engineers Wetland Delineation Manual).
2. Boundaries of any aquatic features which meet the standards above, as well as streams with high water and bend-and-bank, will be sequentially flagged or pin-flagged and horizontally located with a sub-meter GPS.

Approved Jurisdictional Determination Request

A. Area 5 – Access Road and Wallace Woods Road

1. A Request for Corps Jurisdictional Determination (JD) / Delineation will be prepared for a single owner and provided to you to coordinate the original signature (if necessary).
2. JMT will complete the requestor detail with information provided by you.
3. The USACE may require an original signature from the current property owner to process a JD Request.
4. The Request will also include information such as the location, USGS topographic, NRCS soils, and USFWS NWI maps, a map with aquatic features labels and dimensions superimposed on aerial photography utilizing the GPS data collected, and wetland and upland data sheets with site photographs.
5. One site visit to verify the JD request with the USACE is included in this scope.

B. Area 6 – Forest Villas Apartments

1. A Request for Corps Jurisdictional Determination (JD) / Delineation will be prepared for a single owner and provided to you to coordinate the original signature (if necessary).
2. JMT will complete the requestor detail with information provided by you.
3. The USACE may require an original signature from the current property owner to process a JD Request.
4. The Request will also include information such as the location, USGS topographic, NRCS soils, and USFWS NWI maps, a map with aquatic features labels and dimensions superimposed on aerial photography utilizing the GPS data collected, and wetland and upland data sheets with site photographs.
5. One site visit to verify the JD request with the USACE is included in this scope.

IV. PROJECT SCHEDULE

JMT estimates being able to begin work within fifteen (15) working days after being issued a NTP.

V. ASSUMPTIONS

- A. One-foot surveyed contours will be supplemented by two-foot LiDAR contours provided by South Carolina Department of Natural Resources (SCDNR).
- B. Landscape plans, if required for stormwater facility design, are not part of this proposal.
- C. Design criteria for the project will be provided by the owner.
- D. Specifications will be provided on the plans or will be in Masterspec Format.
- E. Design/construction schedule will be provided by the owner.

- F. Permitting, filing, and submission fees will be paid by the owner.
- G. Soil and Infiltration tests are not included in this proposal.
- H. Building permits, if required, will be the responsibility of the Owner / Contractor.
- I. This site will not be draining to a special protection area with sensitive resources.
- J. This scope is just for the JD and JD request. No additional consultation or agency approvals are included.
- K. Fee includes one site visit with the USACE for the JD Request. No subsequent visits will be necessary for any agency.
- L. It is assumed that the site will be readily accessible, and you are securing permission for JMT to access the site.
- M. If JMT makes a site visit and cannot access (some or all of) the property, additional fees will be required.
- N. All aquatic features will be presumed jurisdictional unless authorized by the USACE to be non-jurisdictional.
- O. COVID-19 related issues will not create additional efforts to coordinate with agencies or complete the Scope of Work.
- P. Any additional studies not mentioned in this scope (such as traffic impact or environmental studies) would require a change order to this scope and fee.

VI. CLIENT RESPONSIBILITIES

- A. Provide project area prior to site work, including providing an electronic file of the project area that can be uploaded to a handheld GPS unit and used in project documents.
- B. Facilitate obtaining any needed signatures (i.e. property owner; if necessary) for the documentation outlined above.
- C. Provide access to the property for the site visits, including written access agreement from the property owner, if necessary. An Agent Authorization Form may be required for submittal of a JD Request.
- D. Any necessary CAD, property files, or design files.

VII. ADDITIONAL SERVICES

All services not listed under "Services" are considered Additional Services. The compensation for these services will be in addition to that for "Services." "Additional Services" include, but are not limited to the following:

- A. Engineering services incident to project scope changes beyond JMT's control.
- B. Making revisions to drawings, specifications, or other documents when such revisions are inconsistent with prior approvals or instructions.
- C. Services made necessary by owner's default or by defects in the work of the owner.
- D. Preparing "As Built" drawings.
- E. Providing more representation and/or observation at the work site during construction (at the request of Owner or Contractor), than listed under "Services."
- F. Providing services in connection with future facilities or structures not to be constructed as part of this project.
- G. Zoning Variance Approval for the setback requirements is not guaranteed.
- H. Providing services for additional zoning variances or special exceptions, infiltration testing, traffic impact studies, environmental clearance and hazardous waste screening, SUE utility

designation and location services, environmental or habitat studies and wetland delineations, construction stakeout, flood studies, field survey of the floodplain, underground storage tank removal and/or remediation, hydrogeological well siting, drilling, and yield withdraw and drawdown testing with respect to additional on-site water determination, site lighting and design of a new electric service.

- I. USACE Environmental Permitting (Nationwide Permits, etc.).
- J. Any in-person or virtual meetings except for USACE JD site visit.
- K. Re-flagging of aquatic features (wetland/stream).
- L. More than one site visit with the USACE for the JD Request.
- M. Additional efforts caused by expiration of the 2017 Nationwide Permits or other changes in regulations.


VIII. COMPENSATION


- A. "Services," upon which compensation is based, were determined from conversations with Mr. Blanks and as outlined in the preliminary engineering report.
- B. "Services" will be provided for a lump sum fee of **\$67,700** to be invoiced monthly based on the following phases at the following amounts:

Surveying Services	\$5,800
Site Civil Engineering Services	\$55,500
Environmental Services	\$5,300
Reimbursable	\$1,100

This scope may be amended as needed according to your project requirements and JMT will happily modify any effort or fees at your request to better suit your needs. I thank you for your time and consideration in this matter and again, I look forward to a successful project completion. Should you have any questions regarding these items, please do not hesitate to call me at 843-779-3705.

Respectfully,
Johnson, Mirmiran, and Thompson


Ryan Mattie, PE
Senior Associate



Jim O'Connor, PE
Vice President
South Carolina Office Manager

Additional Services

In the event additional services beyond those identified in the Scope of Work are required by the CLIENT or by circumstances beyond JMT's control, JMT will furnish such services upon written authorization of the CLIENT. Payment for Additional Services will be charged at the following hourly rates which are inclusive of labor, overhead, payroll burden and profit.

<u>Classification</u>	<u>Hourly Rate</u>
Principal Engineer	\$235.00/hr.
Project Manager	\$155.00/hr.
Professional Engineer	\$145.00/hr.
Sr. Environmental Scientist	\$135.00/hr.
Engineering Associate (EIT)	\$100.00/hr.
Engineering Designer	\$ 85.00/hr.
Jr. Environmental Scientist	\$ 80.00/hr.
CAD Technician	\$ 70.00/hr.
Administrative Asst.	\$ 50.00/hr.

The following reimbursables will be invoiced monthly:

1. Mileage charged at \$0.56 per mile (all rates are portal to portal).
2. Reproduction charges are \$0.10 per page for up to 11x17 sheets and \$1.50 per page for sheets larger than 11x17.
3. Consultants and outside services billed at cost plus 10%.

Any changes to the previously approved submittals will be considered a change in scope of services and JMT will be entitled to additional compensation at the rates herein specified.

SE-260

AMENDMENT NO.: 1**AMENDMENT TO PROFESSIONAL SERVICES CONTRACT**AGENCY: Francis Marion UniversityPROJECT NAME: Stormwater Drainage ImprovementsPROJECT NUMBER: H18-N079-MJNAME OF FIRM: JMJ - Johnson, Mirmiran & Thompson, Inc.CONTRACT DATE: 9/21/2021This Contract is changed as follows: *(Insert description of change in space provided below.)*

Additional expenses required for contract documents development, construction cost estimate, advertisement / bidding, construction inspection, and environmental permitting services.

ADJUSTMENTS IN THE CONTRACT SUM:**1. BASIC & SUPPLEMENTAL SERVICES FEE:**

Contract Fee Prior to This Amendment		\$55,500.00
Change in Fee Per This Amendment	\$17,580.00	
Total Revised Basic & Supplemental Services Fee:		\$ 73,080.00

2. ADDITIONAL SERVICES FEE:

Contract Fee Prior to This Amendment		\$11,100.00
Change in Fee Per This Amendment	\$21,200.00	
Total Revised Additional Services Fee:		\$ 32,300.00

3. REIMBURSABLE EXPENSES:

Contract Amount Prior to This Amendment		\$1,100.00
Change in Amount Per This Amendment	\$1,100.00	
Total Revised Reimbursable Expenses:		\$ 2,200.00

4. TOTAL CONTRACT AMOUNT:

Total Contract Prior to This Amendment		\$67,700.00
Total Amendment Amount	\$39,880.00	
Total Revised Contract Amount:		\$ 107,580.00

AGENCY ACCEPTANCE AND CERTIFICATION:

I certify that the Agency has authorized encumbrance funds available for obligation to this contract.

BY: Taylor L. Hucks*(Signature of Agency Representative)*Date: June 27, 2022Print Name of Agency Representative: Taylor L. HucksChange is within Agency Architect/Engineer Contract Amendment Certification of: \$ 25,000.00 Yes No APPROVED BY: W. J. Gordon*(OSE Project Manager)*DATE: 6/29/22**SUBMIT THE FOLLOWING TO OSE**

- SE-260, completed and signed by the Agency.
- SE-260, Page 2, completed and signed by the A/E, with back-up information to support request.

AMENDMENT REQUEST SUMMARY – LARGE CONTRACT

AGENCY: Francis Marion University

PROJECT NAME: F118-N079-MJ

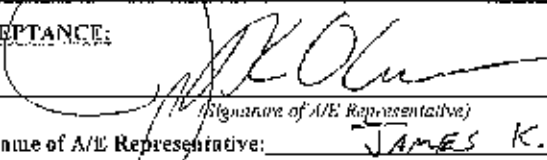
PROJECT NUMBER: Stormwater Drainage Improvements

This Contract is requested to be changed as follows: (Insert description of change in space provided below.) Additional expenses required for contract documents development, construction cost estimate, advertisement / bidding, nonconstruction inspection, and environmental permitting services.

ADJUSTMENTS IN THE CONTRACT SUM:

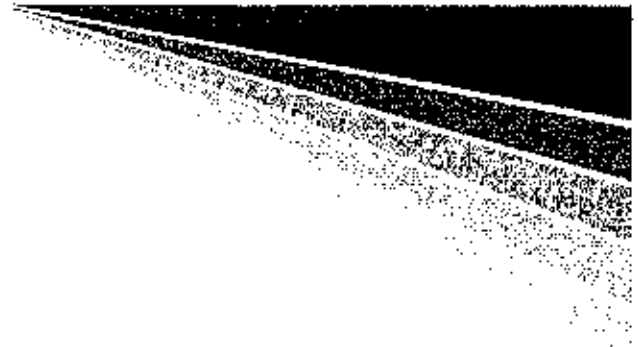
1. REQUESTED CHANGE TO BASIC & SUPPLEMENTAL SERVICES FEE:	Change in Fee Per This Amendment	\$17,580.00
2. REQUESTED CHANGE TO ADDITIONAL SERVICES FEE:	Change in Fee Per This Amendment	\$21,200.00
3. REQUESTED CHANGE TO REIMBURSABLE EXPENSES:	Change in Amount Per This Amendment	\$1,100.00
4. REQUESTED CHANGE TO TOTAL CONTRACT AMOUNT:	Total Amendment Amount:	\$39,880.00

A/E ACCEPTANCE:

BY:  Date: 6/29/2022

Print Name of A/E Representative: JAMES K. O'CONNOR

Instruction to A/E: Attach documentation as needed to justify the requested change to the contract and submit to Agency.



June 24th, 2022

Taylor Hucks, Project Manager
Francis Marion University
P.O. 100547
Florence, SC 29502-0547

RE: Additional Services for Francis Marion University Drainage Improvements - CMCI
JMT Project # 21-01560-001

Dear Ms. Hucks:

JMT is pleased to submit this cost proposal to the Francis Marion University to provide Contract Document Development, Bidding and Construction Administration Services for the Drainage Improvements Project on Campus.

Project Understanding

In addition to the design services which JMT is already providing, we will provide services for development of the contract document package as well as advertisement, bidding and construction inspection and administration services for this work.

Proposed Scope

Following is a summary of scope of services for this project:

I. CONTRACT DOCUMENTS DEVELOPMENT

- 1.) JMT will prepare the Bidding package (including plans, specs, bid tab and standard contract terms) for review and approval by the University prior to public advertisement. We will work collaboratively with the University to prepare the bidding package and will complete the advertisement process. *This package will be based on the AIA standard contract forms and will also include OSE documents as necessary for inclusion into the bid documents. The bidding package will meet the requirements and approval of the University, Office of State Engineer, and the Federal/EDA Grant.*

II. ADVERTISEMENT, BIDDING & CONSTRUCTION SERVICES

- 1.) ~~Coordinate the Invitation to Bid, bonds, insurance requirements, and supplementary conditions with FMU.~~
- 2.) Assist FMU in review and evaluation of the bids received for completeness and required bonds. ~~Check references of the lowest responsible bidders and document findings.~~ Provide written recommendation regarding the bidding results and awarding of the contract to the lowest responsible bidder.
- 3.) ~~Complete the Notice of Award and Notice to Proceed for execution by FMU.~~
- 4.) One (1) Pre-construction meeting and contract document coordination (notices, contracts, insurance and bonds) with the contractor and the University to initiate the project construction.

- 5.) Review shop drawings, samples, tests, and submittals required by the contract documents.
- 6.) Review change order requests submitted by the contractor, make recommendations to the University and process the change orders.
- 7.) Process certificates for payment and make written recommendation to FMU.
- 8.) Final Inspection & Punch List.
- 9.) Construction Cost Estimate

III. CONSTRUCTION INSPECTION SERVICES

- 1.) Attend initial scheduled job conference meeting at the site with the prime contractor, subcontractors, and representative of FMU. Review site-related construction activities at critical times beyond the scheduled job conference meeting. The project duration is assumed to be six (6) months and JMT will provide on-site inspections every other week (or as needed) for a total of 12 total site visits during construction. Twelve (12) Bi-weekly (or as needed) Project Calls will also be included as part of the inspection process. Deliverables as part of these calls and inspections will include:
 - a. *On-site Inspection Reports for the daily activities summarizing general discussions, concerns, and on-site observations. Photos will also be included as part of these reports.*
 - b. *Bi-Weekly calls will include meeting minutes summarizing attendees and general discussions and updates for payment applications, shop drawings, and RFIs.*

IV. ENVIRONMENTAL PERMITTING SERVICES

- 1.) If necessary, JMT will attend a pre-application meeting with the USACE to review the proposed project, discuss any regulatory concerns, and establish a timetable for acquisition of the permits. This may be conducted as an agency site visit and/or as an office meeting.
- 2.) A Joint Federal and State Permit Application for Activities Affecting Waters of the United States and Critical Areas of the State of South Carolina (Joint Permit Application) will be prepared to obtain regulatory approval for a permit for the project. It is assumed that the USACE will process the permit application as a Nationwide Permit (NWP) 7 for outfall structures.
- 3.) The application will include a complete project and impact description, avoidance and minimization measures, and adjacent property ownership.
- 4.) The permit application will include all necessary information, including plan views and cross sections that detail the location and types of impacts.
- 5.) JMT will also coordinate with SCDHEC – Bureau of Water for issuance of the 401 Water Quality Certification during the permit process.
- 6.) Site 5 and Site 6 will be permitted separately as NWPs at the direction of the USACE Regulatory District.

V. PROJECT SCHEDULE

JMT estimates being able to begin work within five (5) working days after being issued a NTP.

VI. ASSUMPTIONS

- A. FMU will review and make necessary legal changes to the sample contract language.
- B. Concrete, asphalt and compaction testing will be provided by a contractor's third party inspector. This information will be documented by JMT for the owner.
- C. Construction inspection time is based off of *bi-weekly* visits on a 6 month timeframe. If the contract extends beyond 6 months, additional services will apply.
- D. Four shop drawings, four RFIs and two change order requests are anticipated as part of these services.
- E. The Pre-construction Notification to the USACE will be processed as a Nationwide Permit (NWP).
- F. If the USACE reviews the Joint Permit Application and government staff determines that it does not meet the criteria for a NWP, then an Individual Permit will be required, which is not part of this scope.
- G. No mitigation SOP or SQT calculations will be required.
- H. One revision to the application and one response to comments is included.
- I. One agency meeting is included.
- J. Project will readily fit USACE and SCDHEC Nationwide Permitting requirements and conditions.
- K. The USACE and SCDHEC are experiencing significant delays as well as changes in several regulations and policies. Any additional effort to complete the scope of work as a result of changes to their (or EPAs) regulations and policies, or their delays, will require additional fees.
- L. This scope does not include public hearings; alternatives analysis; NEPA; or processing a contentious permit or one which does not readily meet their regulations.
- M. Additional revisions to the original permit application, multiple site visits and meetings, and/or public hearings will be billed on a time and material basis at our standard billing rates.
- N. Attendance at public meetings or hearings, detailed threatened and endangered species consultation, historic/archaeological resource issues, legal issues, handling of a contentious permit application and extensive mitigation analyses are not included in this scope and fee.
- O. Mitigation is not anticipated to be required.
- P. Access to project area to be coordinated/allowed by Francis Marion University, if applicable.

VII. ADDITIONAL SERVICES

All services not listed under "Services" are considered Additional Services. The compensation for these services will be in addition to that for "Services." "Additional Services" include, but are not limited to the following:

- A. Engineering services incident to project scope changes beyond JMT's control.
- B. Making revisions to drawings, specifications, or other documents when such revisions are inconsistent with prior approvals or instructions.
- C. Services made necessary by contractor's default or by defects in the work of the contractor.
- D. Providing more representation and/or observation at the work site during construction (at

the request of Owner or Contractor), than listed under "Services."

- E. Providing services in connection with future facilities or structures not to be constructed as part of this project.
- F. Providing services for zoning variances or special exceptions, infiltration testing, traffic impact studies, environmental clearance and hazardous waste screening, SUE utility designation and location services, environmental or habitat studies and wetland delineations, construction stakeout, flood studies, field survey of the floodplain, underground storage tank removal and/or remediation, hydrogeological well siting, drilling, and yield withdraw and drawdown testing with respect to additional on-site water determination, site lighting and design of a new electric service.
- G. Preparation of permanent easements plans, agreements, and negotiations.

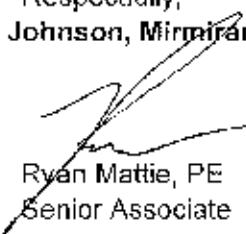
VIII. COMPENSATION

- A. "Services," upon which compensation is based, were determined from conversations with Taylor Hucks and Ralph Davis at Francis Marion University.
- B. "Services" will be provided for a lump sum fee of **\$39,880.00** to be invoiced at JMT's completion of the following phases at the following amounts:


• Contract Documents Development & Const. Est.:	\$8,700.00
• Advertisement, Bidding & Construction Services:	\$8,880.00
• Construction Inspection Services:	\$16,600.00
• Environmental Permitting Services:	\$4,600.00
• Directs:	\$1,100.00

This scope may be amended as needed according to your project requirements and JMT will happily modify any effort or fees at your request to better suit your needs. Contract terms and conditions will be based upon the original agreement for this project dated September 21st, 2021 and referred to as "Stormwater Drainage Improvements", FMU project number H18-N079-MJ. I thank you for your time and consideration in this matter and again, I look forward to a successful project completion. Should you have any questions regarding these items, please do not hesitate to call me at 843-452-3266.

Respectfully,
Johnson, Mirmiran, and Thompson



Ryan Mattie, PE
Senior Associate



Jim O'Connor, PE
Vice President
South Carolina Office Manager

WE HEREBY AUTHORIZE JOHNSON, MIRMIRAN & THOMPSON, INC. TO PROCEED IN ACCORDANCE WITH THE ABOVE PROPOSAL. IF ANY PROFESSIONAL SERVICES ARE ORDERED BY A REPRESENTATIVE OF THE CLIENT, FOR ITEMS LISTED ABOVE WITH A RETURNED ACCEPTANCE, THE PRICES AND TERMS OF THIS PROPOSAL SHALL BE IN EFFECT.

ORGANIZATION: _____

DATE: _____

BY: _____

TITLE: _____

SIGNATURE: _____