



D. Secure Areas - Other Than Normal Working Hours: Work performed in Secure Areas from 4:00 p.m. to 7:00 a.m. Monday to Friday, and any time Saturday, Sunday, and Holidays. The Contractor will perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor as listed in Exhibit "A".

E. Non-pre-priced Adjustment Factor: To be applied to Work determined not to be included in the CTC but within the general scope of the work at the adjustment factor listed in Exhibit "A".

### **Article 3. Agreement Term.**

1. **Term.** This Agreement, including the incorporated General Terms and Conditions as amended herein, is effective upon the date of the final signature below. The term of this Agreement is two-years from the effective date. The Agreement expires at 11:59 P.M. Eastern Time on January 6, 2027, unless it is cancelled or extended as defined in this Contract.
2. **Extensions.** OWNER and SOURCEWELL may offer CONTRACTOR up to three additional one-year extensions beyond the original two-year term. The total possible length of this Agreement will be five years from the effective date.
3. **Exceptional Circumstances.** OWNER and SOURCEWELL retain the right to consider additional extensions as required under exceptional circumstances.

### **Article 4. OWNER and CONTRACTOR's Representations.**

In order to induce OWNER and CONTRACTOR to enter into this Agreement, CONTRACTOR and OWNER make the following representations:

1. OWNER has the lawful authority required under State Law and County Ordinances to enter into and perform this Agreement.
2. OWNER shall not offer employment to any employee of CONTRACTOR for a period of two (2) years after the termination of this Agreement.
3. CONTRACTOR has all necessary licenses and consents required to enter into and fully perform the Work required by the Contract Documents and is in good standing in the State of South Carolina.
4. CONTRACTOR has examined and carefully studied the Contract Documents.
5. CONTRACTOR is familiar with and is satisfied as to all applicable, relevant and appropriate federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

6. CONTRACTOR has considered the information known to CONTRACTOR; information commonly known to contractors doing business in Horry County, information and observations obtained from visits to the site, the Contract Documents, and any site related reports and drawings identified in the Contract Documents with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including any specific means, methods, techniques, sequences and procedures of construction expressly required by the Construction Documents; and (3) CONTRACTOR'S safety precautions and programs. Based on the information and observations, CONTRACTOR does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Time of Completion, and in accordance of other terms and conditions of the Contract Documents.
7. CONTRACTOR is aware of the general nature of any work that may be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents and does not require any additional information to ensure CONTRACTOR meets its obligations in the Contract Documents.
8. CONTRACTOR has given OWNER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by OWNER is acceptable to CONTRACTOR.
9. The Contract Documents are sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
10. CONTRACTOR shall properly withhold from all wages, commissions, salaries, and fees paid by CONTRACTOR to third parties or employees, agents, or sub-contractors of CONTRACTOR, all amounts required by State or Federal law to be withheld for or on account of taxes, social security payments, or other withholdings mandated by law or regulation.
11. CONTRACTOR shall comply with all lawful demands made pursuant to the South Carolina Freedom of Information Act, S.C. Code § 30-4-10 et seq. or the Federal Freedom of Information Act, 5 U.S.C.S. § 552.
12. CONTRACTOR shall make no offer of employment to any County employee for a period of two (2) years after the termination of this Contract.

#### **Article 5. Contract Documents.**

The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR consist of the following:

1. Horry County Contractor Agreement and Exhibit A (this document)

2. Sourcewell Indefinite Delivery- Indefinite Quantity Construction Contract General Terms and Conditions
3. Negotiated Terms
4. Vendor Submitted Proposal to include the Construction Task Catalog
5. All Addenda Issued
  - No. 6, dated September 6, 2024
  - No. 5, dated August 23, 2024
  - No. 4, dated August 21, 2024
  - No. 3, dated August 16, 2024
  - No. 2, dated August 15, 2024
  - No. 1, dated August 12, 2024
6. Request for Proposals Document (including the required forms packet)

#### **Article 6. Indemnification.**

The CONTRACTOR will indemnify and hold harmless the OWNER and SOURCEWELL and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, injury to or destruction of tangible property, including the loss of use resulting therefrom, and is caused by any negligent or willful act or omission of the CONTRACTOR, and anyone directly or indirectly employed by it or anyone for whose acts any of them may be liable. In any and all claims against the OWNER or SOURCEWELL, or any of their agents or employees by an employee or subcontractor of the CONTRACTOR, and anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable., The obligation of the CONTRACTOR under this paragraph shall not extend to the liability of the OWNER or SOURCEWELL or its agents or employees arising out of reports, surveys, change orders, designs, or specifications that are un-attributable to the CONTRACTOR.

#### **Article 7. Insurance.**

CONTRACTOR represents that it has purchased and agrees that it will keep in force, for the duration of the performance of the work, or for such longer term as may be required by this Agreement, in a company or companies lawfully authorized to do business in the State of South Carolina, such insurance as will protect general liability and the OWNER from claims for loss or injury which might arise out of, or result from, CONTRACTOR's operations under this project, whether such operations be by CONTRACTOR or by a subcontractor or its subcontractors. CONTRACTOR represents and agrees that such insurance is written for and shall be maintained in an amount not less than the limits of the liability specified in the Contract Documents or required by law, whichever coverage is greater. CONTRACTOR certifies that coverage written on a "claims made" form will be maintained without interruption from the commencement of work until the expiration of all applicable statutes of limitation.

CONTRACTOR shall have its insurer or agent file Certificates of Insurance, naming the OWNER as additional insured, in duplicate, prior to commencement of work, which shall contain a provision that coverages under the policies shall not be cancelled or allowed to expire or permit material changes until at least ten (10) days written notice has been given to additional insured.

#### **Article 8. Independent Contractor Status**

CONTRACTOR shall not, by entering into this Agreement, become a servant, agent, or employee of OWNER or SOURCEWELL, but shall remain at all times an independent contractor. This Agreement shall not be deemed to create any joint venture, partnership, or common enterprise between CONTRACTOR and OWNER and SOURCEWELL, and the rights and obligations of the parties shall not be other than as expressly set forth herein.

#### **Article 9. Termination for Non-Appropriation**

Notwithstanding any other provision herein, the OWNER may terminate any Task Order issued under this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project in the following fiscal year after execution of this agreement, regardless of the source of such funds, and such termination shall be in accordance with the relative terms set forth in Article 11 below.

#### **Article 10. Termination in General**

1. If the termination is for the convenience of the OWNER, an equitable adjustment in the Contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services. The CONTRACTOR shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the CONTRACTOR shall stop work when such termination becomes effective. The CONTRACTOR shall also terminate outstanding orders and subcontracts for the affected work. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The OWNER may direct the CONTRACTOR to assign the CONTRACTOR 's right, title and interest under termination orders or subcontracts to the County or its designee. The CONTRACTOR shall transfer title and deliver to the County such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the CONTRACTOR has in its possession or control. CONTRACTOR further agrees to provide or acquire, as may be necessary, any lien waivers or releases from CONTRACTOR or its subcontractors as may be required by OWNER.
2. If the termination is due to failure to fulfill the CONTRACTOR's obligations, the OWNER may take over the work and prosecute the same to completion by Contract or otherwise. In such case, the CONTRACTOR shall be liable to OWNER for any additional cost occasioned to the OWNER thereby. If, after notice of termination for failure to fulfill the Contract obligations, it is determined that the CONTRACTOR had not so failed, the termination shall be deemed to have been

affected for the convenience of the OWNER. In such event, adjustment in the Contract price shall be made as provided in Subsection 11.2 above.

3. The rights and remedies of Horry County provided in this Article are in addition to any other rights and remedies provided by law or under this Contract, including any provisions within the incorporate General Terms and Conditions. Any agency piggybacking this agreement will follow the termination procedures as defined exclusively within the General Terms and Conditions.
4. Notwithstanding any other provision contained herein, any violation or breach of terms of this Contract on the part of the CONTRACTOR or their subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties of this Contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
5. In order to Terminate this Agreement, the terminating Party must deliver thirty (30) days written notice to all non-terminating Parties specifying the reason and provision within this Agreement justifying such termination.

#### **Article 11. Notice to Parties**

All notices to each party to this Contract, except routine notices of performance of the Work during the Agreement term, shall be in writing, and sent as follows:

To OWNER:

Horry County Maintenance Department  
307 Smith Street  
Conway, SC 29526  
(Tel: 843-915-5300; fax: 843-248-1420)

with a copy to:

Horry County Attorney  
1301 Second Avenue  
Conway, SC 29526  
(Tel: 843-915-5270; fax: 843-915-6270)

To CONTRACTOR:

Eastern Corporation  
5825 Medlock Bridge Parkway, Suite 100  
Alpharetta, GA 30022  
(Tel: 678-360-4345)

To SOURCEWELL:

Sourcewell  
202 12<sup>th</sup> St NE  
Staples, MN 56479  
(Tel: 877-585-9706)

#### **Article 12. Assignment.**

CONTRACTOR shall not assign, permit the assumption of or in any manner transfer any interest in this Agreement, or any part thereof, without the prior written consent of all Parties. If CONTRACTOR assigns, permits the assumption of or in any manner attempts a transfer of its interest in this Agreement, OWNER or SOURCEWELL, in its sole discretion, may declare this entire Agreement null and void.

#### **Article 13. Jurisdiction and Venue.**

CONTRACTOR agrees that jurisdiction over any dispute arising under or in relation to this Agreement shall be filed in the Court of Common Pleas in Conway, SC with South Carolina law governing without any reference to any conflict of laws provision and that any subcontract issued by CONTRACTOR shall contain this same provision.

#### **Article 14. Compliance with EEOC and other State and Federal Laws.**

CONTRACTOR shall comply with the provisions and affirmatively warrants that CONTRACTOR is currently in compliance with the following laws, and further warrants that during the term of this Contract, CONTRACTOR shall remain in compliance to the extent set forth within the respective statute or regulation:

Titles VI & VII of the Civil Rights Act of 1964;  
Age Discrimination in Employment Act of 1967;  
Title I of the Americans with Disabilities Act of 1990;  
Equal Pay Act of 1963;  
Fair Labor Standards Act of 1938;  
Immigration Reform and Control Act of 1986;  
South Carolina Payment of Wages Act, S.C. Code §§ 41-10-10 et seq.;  
South Carolina Worker's Compensation Act, S.C. Code §§ 42-1-10 et seq.;  
South Carolina Illegal Immigration Reform Act, including without limitation Chapters 14 & 29, Title 8, and Chapter 8, Title 41, S.C. Code of Laws; and  
Part 681, Title 16 of the Code of Federal Regulations, Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003; the South Carolina Act 90 of 2008; Financial and Identity Theft Protection Act; and the Horry County Privacy / Identity Theft Policy.

CONTRACTOR, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of

DOT-assisted contracts. Failure by CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County or aggrieved party deems appropriate.

#### Article 15. Force Majeure and Impossibility of Performance.

No Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes, to the extent beyond its reasonable control: acts of God, accident, riots, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, generalized lack of availability of raw materials or energy.

For the avoidance of doubt, Force Majeure shall not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder.

#### Article 16. Severability.


If any term or condition of this contract or the application thereof to any Party or circumstances is held invalid, this invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this contract are agreed to be severable.

#### Article 18. Agreement

**IN WITNESS WHEREOF**, the parties have executed this Agreement via electronic signature the day and year as noted in such signature, with the effective date of the Agreement as written above.

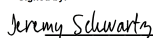
#### **CONTRACTOR**

Derek Barker  
General Manager of Business Development

Signed by:  
  
002C0F47B1F1477...  
(Authorized Signature)

#### **SOURCEWELL**

Jeremy Schwartz

Signed by:  
  
C0FD2A139D06489...  
(Authorized Signature)

#### **HORRY COUNTY**

David Gilreath, PE  
Assistant County Administrator

Signed by:  
  
E301E7377F614DC...  
(Authorized Signature)



# Exhibit A

Contractor Company Name	Region	Service Type	Work Outside Area (yes/no)	Non-Secure Areas, Normal Working Hours	Non Secure Areas, Other Than Normal Working Hours	Secure Areas, Normal Working Hours Secure	Secure Areas, Other than Normal Working Hours	Non-pre-priced Adjustment Factor
Eastern Corporation	Region 1	General Construction	Yes	1.2059	1.2193	1.2309	1.2427	1.2495
Eastern Corporation	Region 2	General Construction	Yes	1.2394	1.2492	1.2497	1.2585	1.2653
Eastern Corporation	Region 3	General Construction	Yes	1.2394	1.2492	1.2497	1.2585	1.2653
Eastern Corporation	Region 4	General Construction	Yes	1.2394	1.2492	1.2497	1.2585	1.2653
Eastern Corporation	Region 6	General Construction	Yes	1.2394	1.2492	1.2497	1.2585	1.2653
Eastern Corporation	Region 7	General Construction	Yes	1.2394	1.2492	1.2497	1.2585	1.2653
Eastern Corporation	Region 1	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 2	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 3	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 4	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 5	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 6	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395
Eastern Corporation	Region 7	Roofing	Yes	1.2829	1.2947	1.2984	1.3231	1.3395