

**CONTRACT AGREEMENT  
RC-031-P-2017**

THIS Contract Agreement is dated as of the 14 day of Aug. in the year 2017 by and between **RICHLAND COUNTY, SOUTH CAROLINA**, (hereinafter called "OWNER") and Hamvis Properties, Inc. (hereinafter called "CONTRACTOR") for the following Project, for which the Work under the Contract Documents may be the whole or only a part, is generally described in the OWNER's Invitation for Bids: Bid No. RC-031-P-2017 (hereafter called "Invitation For Bids") as follows:

CDBG-DR Manufactured Housing Demolition and Replacement (the "Project").

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK.**

1.1 CONTRACTOR shall complete all work for the Project as specified or indicated in the Contract Documents (the "Work"). The Work is generally described as follows:

*Richland County government is the administrator of a Community Development Block Grant - Disaster Recovery (CDBG-DR) Program funded by The U.S. Department of Housing and Urban Development (HUD) under Public Law 114-113. Work includes demolition of substandard manufactured housing units and installation of new manufactured housing units as a turn-key project.*

**Article 2. INSPECTOR.**

2.1 The OWNER has designated TetraTech as its representative and it will assume all duties and responsibilities and will have the rights and authority assigned to the INSPECTOR as described in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. Construction Engineering and Inspection shall also be performed by Tetrattech as the INSPECTOR. The INSPECTOR information for notice purposes is:

TetraTech Inc.  
2301 Lucien Way  
Suite 120  
Maitland, FL 32751

**Article 3. CONTRACT TIME.**

3.1 The Work will be Substantially Complete no later than **ninety (90)** days from the project start date ("the Contract Time.")

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not Substantially Complete within the time(s) specified above. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as

liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER One Hundred Dollars (\$100.00) for each calendar day that expires after the time specified in paragraph 3.1 for completion of work.

- 3.3 The Contract Time may be changed only by a Change Order or Claim as defined in the SCDOT Standards Specifications and for the reasons stated in the General Conditions that are part of the Invitation For Bids.

#### **Article 4. CONTRACT PRICE.**

4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, and in accordance with the unit bid prices submitted in the Contractor's Response to the Invitation for Bids on April 3, 2017 with an estimated initial contract amount of **\$2,790,000.00. Actual contract amount may vary based on overall Single Family Homeowner Rehabilitation Program needs.**

4.2 The Contract Price may be changed only by a Change Order for the reasons stated in the General Conditions that are part of the Invitation For Bids.

#### **Article 5. PAYMENT PROCEDURES.**

CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions in the Invitation for Bids but in no case shall submit Applications for Payment more than once per month. Applications for Payment will be processed by INSPECTOR as provided in the General Conditions.

5.1 Payment Terms. Payment will be made within thirty (30) days after acceptance of completed order/project in accordance with the payment schedule. Payment applications for construction contracts are to be submitted on the latest standard AIA Application for Payment form for unit price contracts. Application for Payment shall reflect work completed through the last day of the month. Retainage for construction contracts will be on each Application for Payment is as follows: 10% of completed, 10% of stored materials. Partial payments will be made as follows: Provided an Application for Payment is received by the INSPECTOR, or project manager, no later than the 10<sup>th</sup> of the month, the OWNER shall make payment to the CONTRACTOR not later than thirty (30) days from receipt of the approved Application for Payment. If an Application for Payment is received by the INSPECTOR after the 10<sup>th</sup> day of the month, payment shall be made by the OWNER no later than thirty (30) days after the INSPECTOR, or project manager, approves the Application for Payment.

5.2 Final Payment. Upon Final Completion and acceptance of the Work in accordance with the General Conditions in the Invitation For Bids, OWNER shall pay the remainder of the Contract Price and retainage as recommended by INSPECTOR as provided in this Article, subject to any offsets due to OWNER as provided in this Agreement.

#### **Article 6. CONTRACTOR'S REPRESENTATIONS.**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all conditions and including any federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

- 6.2 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by CONTRACTOR for such purposes.
- 6.3 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing underground facilities at or contiguous to the site and assumes responsibility for the accurate location of said underground facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
- 6.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 6.5 CONTRACTOR has given INSPECTOR written notice of all conflicts, error or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by INSPECTOR is acceptable to CONTRACTOR.
- 6.6 The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**Article 7. CONTRACT DOCUMENTS.**

The Contract Documents which compromise the entire Agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 7.1 This Contract Agreement.
- 7.2 The OWNER's Invitation For Bids: Bid No. RC-031-P-2017 (Not attached but incorporated herein by reference thereto.) The Invitation For Bids includes all documents that were part of the advertisement of the Project, including but not limited to Instructions to Bidders, General Provisions, and General Conditions in the bid documents.
- 7.3 Contractor's Response to Bid No. RC-031-P-2017 including its Bid Bond. (Not attached but incorporated herein by reference thereto.)
- 7.4 Technical Specifications, Special Provisions and Addendums provided in the bid documents that is part of the Invitation for Bids. (Not attached but incorporated herein by reference thereto.)
- 7.5 Attachment A- MHU Pricing Procedures and Installation Draw Schedule.

7.6 The following, which may be delivered or issued after the effective date of the Agreement and not attached hereto:

- a) Notice to Proceed
- b) Performance Bond
- c) Payment Bond
- d) Fully executed Written Amendments
- e) Fully executed Work Change Directive(s)
- f) Fully executed Change Order(s)

7.7 Additionally, if not included in the Invitation for Bids, the OWNER's General Conditions that are the standards terms and conditions for doing business with Richland County and found at <http://www.richlandonline.com/Government/Departments/BusinessOperations/Procurement.aspx> ("OWNER's Standard General Conditions") are part of the Contract Documents.

7.8 **Order of Precedence.** This Agreement, including the Exhibits listed above, are collectively called in this Agreement "the Contract Documents," and form the entire Agreement between the parties, superseding all prior negotiations, representations, or agreements, whether written or oral. The Contract Documents are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of the Agreement, any other Contract Document and any Exhibit irreconcilably conflicts with a provision of the Agreement, the following rules of interpretation shall control:

7.8.1 As between this primary Agreement document and any of the other Contract Documents (including the Invitation For Bids and the contract terms and conditions included therein), this Agreement shall govern.

7.8.2 As between the Invitation For Bids and the SCDOT Standards Specifications, the Invitation For Bids shall govern, including all Supplemental Specifications and Addenda issued by the OWNER as part of the Invitation For Bids.

7.8.3 As between any other Contract Document (except the Contractor's Response to the Invitation for Bids and the OWNER's Standard General Conditions), the other Contract Document shall govern.

7.9 Degree of Application: CONTRACTOR. Should there be a conflict between any provision of any Contract Document that is not determined by the Order of Precedence section herein, the CONTRACTOR will be assumed to have agreed to the more onerous obligation or duty between or among the conflicting terms.

#### **Article 8. MISCELLANEOUS.**

8.1 Terms used in this Agreement will have the meanings indicated in the Invitation For Bid documents, including the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specially

stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 8.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 8.5 If the CONTRACTOR defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten (10) day period after receipt of written notice from the OWNER to commence and continue correction of such default or neglect with diligence and promptness, the OWNER may, without prejudice to other remedies the OWNER may have, correct such deficiencies and deduct from payments then or thereafter due the CONTRACTOR the reasonable cost of correcting such deficiencies, including OWNER'S expenses and compensation for additional engineering services made necessary by such default, neglect or failure. If payments then or thereafter due the CONTRACTOR are not sufficient to cover such amounts, the CONTRACTOR shall pay the difference to the OWNER. Should the CONTRACTOR default under its obligations in the performance of this Agreement and is terminated by the OWNER prior to Substantial Completion of the Work, the CONTRACTOR shall be liable to the OWNER for all actual, consequential and incidental damages as a consequence of CONTRACTOR'S default, including but not limited to, the additional cost to complete the Work under the approved schedule at the time of the CONTRACTOR'S default and any liquidated damages that may result from any resulting delay of the date of Substantial Completion.
- 8.6 The CONTRACTOR warrants to the OWNER and INSPECTOR that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The CONTRACTOR further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit.
- 8.7 If the CONTRACTOR encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in the character of the Work to be provided in the Contract Documents, the CONTRACTOR shall promptly provide notice of a Claim to the OWNER and the INSPECTOR before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. If the INSPECTOR determines that conditions differ materially and cause an increase or decrease in the CONTRACTOR'S cost of, or time required for, performance of any part of the Work, the INSPECTOR will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the INSPECTOR determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified,

the INSPECTOR shall promptly notify the OWNER and CONTRACTOR in writing, stating the reasons. The failure of the CONTRACTOR to provide written notice of the nature of the Claim within the ten (10) days, and that the Claim may result in a delay or additional cost to the OWNER, is an absolute waiver of the CONTRACTOR's right to any additional contract time or compensation because of such site conditions. This waiver applies notwithstanding the OWNER's actual knowledge and notice of the site conditions and/or CONTRACTOR's Claim associated with such site conditions.

8.8 Non-Appropriation: Any contract entered into by the OWNER resulting from this bid invitation shall be subject to cancellation without damages or further obligation when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.

## **ARTICLE 9. INSURANCE.**

At least ten (10) business days prior to CONTRACTOR'S start date Contractor shall provide OWNER a certificate of insurance with all insurance required by the State of South Carolina and minimally the below insurance with companies having a Best Rating of A-, VII or higher. All insurance shall be at Contractor's expense and be maintained throughout the contract period.

CONTRACTOR must have these same insurance requirements for any of its subcontractors, and verify them, or insure them under CONTRACTOR'S policies. CONTRACTOR shall provide and shall request insurers to provide the OWNER 30 days written notice of any cancelation, non-renewal or reduction in coverage. CONTRACTOR agrees the OWNER is covered by any provisions or limits in excess of the minimum requirements of this contract. The policies shall be noncontributory. Any deductibles or retentions are the responsibility of the CONTRACTOR. Any breach of this contract is material. The OWNER reserves the right to modify these requirements, including the limits.

The commercial general liability policy and the auto liability policy shall include: a) contractual liability b) a waiver of subrogation for the OWNER, its officers, officials, employees, leased and temporary employees and volunteers c) primary coverage even if the policy asserts it is excess, secondary or contingent and d) severability of interest.

The certificate shall name the OWNER, its officers, officials, employees, leased and temporary employees and volunteers as additional insureds with coverage as comprehensive as Insurance Offices Form CG 20 10 11 85.

CONTRACTOR shall obtain a commercial general liability policy with minimum limits of one million dollars per occurrence and two million dollars aggregate. The completed operations coverage shall extend at least two years beyond the completion date.

CONTRACTOR shall obtain a workers' compensation policy that provides South Carolina coverage ("Other States" coverage is unacceptable.) and employer's liability with \$500,000 limits per accident / per disease. Subrogation against the OWNER shall be waived for all work performed by the CONTRACTOR, its employees, agents and subcontractors.

## **Article 10. OTHER PROVISIONS.**

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate, under seal. One counterpart each has been delivered to OWNER, CONTRACTOR and INSPECTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR.

This Agreement will be effective on 08/15/17

**OWNER:**

**RICHLAND COUNTY**

By: 

Its: County Administrator

**CONTRACTOR:**

**Hamvis Properties, Inc.**

By: 

Its:

Attest: 

Attest: 

Address for giving notices:


Richland County (OWNER)  
Office of Procurement & Contracting  
2020 Hampton Street, Suite 3064  
Columbia, SC 29204

Address for giving notices:

Hamvis Properties, Inc.  
311 East Ash Street  
Goldsboro, NC 27530

Designated Representative:

Designated Representative:

Richland County Attorney's Office  
  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

## **ATTACHMENT A- MHU Pricing Procedures and Installation Draw Schedule**

The following pricing procedures and installation draw schedule is based upon the Contractor completing the scope of services described in Schedule F and pricing offered in Addendum 1 of the County's RFP RC-031-P-2017 hereby included as part of this Contract as Attachment A. Contractor will be responsible for obtaining all required permits from the required local, state and other agencies required by law to complete the services outlined in scope of services referenced above. Contractor should reference the Richland County Building Codes & Inspections *Department Manufactured Home Setup* packet.

**Price Finalization Procedure:** Upon approval of a site for a new MHU by the OWNER; the Contactor and OWNER will determine the final site specific pricing and schedule for the individual site. To do this, a pricing team consisting of the Contactor and the INSPECTOR (the "Pricing Team") will coordinate with the homeowner to schedule a joint site visit. The purpose of this site visit will be to determine and memorialize the MHU location, the line item quantities for demolition, site and utility preparation and installation, and the final site specific total turnkey MHU installation costs. The procedure for this is as follows:

1. Once a site is approved by the OWNER, the Pricing Team will schedule a site visit with the homeowner.
2. At the site visit, the Pricing Team will identify the MHU location
  - a. The MHU corner locations will staked and marked and photographed onsite
  - b. The MHU location will be sketched on the Site Plan Form by the INSPECTOR
  - c. The Site Plan Form will be signed by all members of the Pricing Team and the homeowner
3. At the site visit, the Pricing Team will determine the various unit price quantities and schedule to complete MHU installation based on the Site Plan
  - a. The INSPECTOR will calculate and memorialize all needed unit pricing quantities, as identified by the Pricing Team, identified in Addendum 1 of the Contractor Proposal on the Site Pricing and Schedule Form.
  - b. The INSPECTOR will calculate the final unit costs by multiplying the agreed site specific quantities by the unit prices identified in Addendum 1 of the Contractor Proposal on the Site Pricing and Schedule Form.
  - c. INSPECTOR will then total all unit pricing totals on the Site Pricing and Schedule Form to establish final site specific total turnkey MHU installation cost.
  - d. The Pricing Team and homeowner will then determine the date that the homeowner will vacate the property (Start Date). The Contractor will then have 90 calendar days from the Start Date to deliver the Certificate of Occupancy to the homeowner (Delivery Date). The Start Date and Delivery Date memorialized it on the Site Pricing and Schedule Form.
  - e. The Site Pricing and Schedule Form will then be signed by all members of the Pricing Team.
  - f. The OWNER will then forward a copy of the Site Pricing and Schedule Form to the Contractor within four calendar days of the site visit.
  - g. The Copy will notify the homeowner of the agreed Start Date within four calendar days of the site visit.

**MHU Draw Schedule:** Once the site visit is completed, MHU installation will then commence based on a set draw schedule. This draw schedule will be based on percentages of the final site specific total turnkey MHU installation cost as identified on the Site Pricing and Schedule Form for that site. Upon receipt of the fully executed Site Plan Form and Site Pricing and Schedule Form, the Contractor may request draw payments based on the following draw schedule:

Draw Number:

1. **10% Mobilization:** The County will release the draw to the Contactor upon receipt of the fully executed Site Plan Form and Site Pricing and Schedule Form, confirmation of site specific Performance Bond, and delivery to the County of a County approved permit for demolition at the property location.
2. **15% Site Preparation:** The Contractor will notify the County Inspector (Inspector) once all necessary site demolition and preparation to install the MHU has been completed. The County will release the draw upon



notification from the Inspector that site demolition and preparation is complete. This will include delivery to the County of a County approved permit (including MHU moving permits for all Counties affected) to install the new MHU at the property location.

3. **45% MHU Setup:** The Contractor will notify the County Assigned Inspector once the MHU has been delivered, set on blocks, axels removed, and anchored and all relevant utility approvals . The County will release the draw upon notification from the County Assigned Inspector that the MHU setup is complete.
4. **15% MHU Completion and Owner Acceptance:** The contractor will notify the County Assigned Inspector when all site and construction activities are completed and the MHU is installed with skirting, connected to utilities, and is ready for occupancy. Once notified by the Contractor the County Assigned Inspector will schedule a site inspection with the Contractor and homeowner at which the County Assigned Inspector will confirm all site activities have been successfully completed and that the homeowner confirms final acceptance. The County will release the draw upon notification from the County Assigned Inspector.
5. **15% Project Closeout and Release of Bond:** Upon notification of final homeowner acceptance the Contractor will submit a copy of all required building and trade permits and inspections, signed release of lien forms from all subcontractors and suppliers, and the final inspection approval the Building Inspector. Upon receipt of the documentation the County will release the final draw and site Bond Release.

**Construction Schedule:** In the event that the Contractor fails to deliver the Certificate of Occupancy to the Homeowner by the Delivery Date specified on the Site Pricing and Schedule Form a sum of \$100 per day in liquidated damages will be assessed by the County and subtracted from the remaining payment draws for that site per the contract. If the homeowner fails to vacate the property by the Start Date there shall be no liquidated damages.

#### Draw Process

- Supporting documentation is required along with a written request per the Contract. The request needs to be itemized based upon the approved contract budget and signed and dated.
- Supporting documentation includes but not limited to: receipts, invoices; manufacturers' warranties; and other items as deemed appropriate.
- Please note payments, with appropriate documentation, are processed on a net 30 pay schedule.
- Remit payment requests to:  
Valeria Jackson  
CDBG-DR Manager  
2020 Hampton Street, Suite 3063B  
Columbia SC 29204