STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	**BEFORE THE CHIEF PROCUREMENT OFFICER FOR CONSTRUCTION**
IN THE MATTER OF: CONTROVERSY	**DISMISSAL**
PC CONSTRUCTION OF GREENWOOD, INC. **vs.** **LANDER UNIVERSITY, THE LANDER FOUNDATION, LANDER RWS PROPERTIES, LLC, AND REGIONS BANK**	**CASE NO. 2013-006**
LANDER RWS COMPLEX INITIATIVE FIELD CONSTRUCTION **STATE PROJECT NO. H21-N019-MJ-A**	**POSTING DATE: February 28, 2013**

The Lander Foundation is a not-for-profit corporation created for the purpose of advancing the interests of Lander University. The Foundation contracted with PC Construction of Greenwood, Inc., to construct a student recreation, wellness and sports complex adjacent to the campus of Lander University. Lander RWS Properties, LLC, is the Foundation's wholly-owned subsidiary. Lander RWS Properties exists to hold title to the project and facilitate its financing through the sale of bonds issued by the South Carolina Jobs-Economic Development Authority. Regions Bank is the holder of the bonds pursuant to an indenture dated November 25, 2009. By the terms of the indenture and related documents, Regions Bank also holds by assignment certain rights in the construction contract. Part of the overall transaction includes a lease of the completed project from Lander RWS Properties to the University. The University's acquisition of the project is subject to the provisions of the Consolidated Procurement Code pursuant to S.C. Code Ann. 11-35-40(4) (2011).

As provided for in Code Section 11-35-4230, PC Construction requested the Chief Procurement Officer for Construction to resolve controversies arising during performance of the contract. It seeks to recover the unpaid balance of the contract sum and asserts claims for additional costs it alleges result, among other things, from the disruption to its schedule caused by events beyond

its control. Although no responsive pleadings were filed, it is clear that the other parties named in the request deny any liability to PC Construction.

The formal document PC Construction filed to initiate its claims identifies Lander University as a party. Its allegations concerning the University describe the involvement of a Lander employee who responded to the claims prior to the filing of this request. Those paragraphs explicitly note that the University is not a party to the construction contract. Although PC Construction request the CPOC order all respondents, including the University, to pay the claims, it articulated no ground on which such relief could be granted against Lander. Accordingly, the claims against Lander University are dismissed.

The remaining four parties—PC Construction, the Lander Foundation, Lander RWS Properties, and Regions Bank—have entered into a settlement agreement. By a separate writing the CPOC has approved the settlement pursuant to Code Section 11-35-4230(3). The settlement resolves all issues asserted in PC Construction's Request, and purports to resolve all claims which could have been raised by these four parties. Accordingly this matter is dismissed.

John St. C. White
Chief Procurement Officer
For Construction

28 Feb 2013
Date

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Contract Controversy Appeal Notice (Revised January 2013)

The South Carolina Procurement Code, in Section 11-35-4230, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of the posting of the decision in accordance with Section 11-35-4230(5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel, or to the Procurement Review Panel, and must be in writing setting forth the reasons why the person disagrees with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and any affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or legal.

Copies of the Panel's decisions and other information regarding the protest process are available on the internet at the following web site: http://procurement.sc.gov

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the 2012 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars ($250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410…Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002); *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 202, Columbia, SC 29201

_____ _____
Name of Requestor Address

_____ _____
City State Zip Business Phone

1. What is your/your company's monthly income? _____

2. What are your/your company's monthly expenses? _____

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:
_____
_____
_____
_____

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this
_____ day of _____, 20_____

_____ _____
Notary Public of South Carolina Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

_____
Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.