

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
))
))
IN THE MATTER OF:)
))
J.C. WILKIE CONSTRUCTION, LLC)
))
v.)
SOUTH CAROLINA DEPARTMENT)
OF MENTAL HEALTH)
))
))
INPATIENT BUILDINGS -)
DEFERRED MAINTENANCE)
STONE & FEWELL PAVILION)
PAVEMENT REPAIRS)
PROJECT J12-9707-LC-P)
_____)

**BEFORE THE CHIEF PROCUREMENT
OFFICER FOR CONSTRUCTION**

DECISION

CASE NO. 2009-011

**POSTING DATE
January 26, 2009**

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request by J.C. Wilkie Construction, LLC, under the provisions of section 11-35-4210 of the South Carolina Consolidated Procurement Code, for an administrative review of the Inpatient Buildings – Deferred Maintenance - bid (“the Project”), for the South Carolina Department of Mental Health (DMH). Wilkie protests DMH’s posting of a Notice of Intent to Award a contract for the project to Cherokee, Inc.

NATURE OF THE PROTEST

Wilkie’s protest is attached and incorporated herein by reference. [Ex. A] Wilkie protests DMH’s determination that Wilkie was not a responsible bidder because Wilkie did not possess the proper contractor’s license to bid the project as a sole prime contractor.

FINDINGS OF FACT

The following dates and facts are relevant to the protest:

1. On November 24, 2008, DMH solicited bids to perform the work of the Project.
[Ex. B]
2. The scope of the work is briefly describe in the invitation for bids and in a cost estimate prepared by Civil Engineering Consulting Services, Inc. (CEC). [See Ex. C for the cost estimate]

2. By the time for receiving and opening bids, December 18, 2008, DMH received five bids. [Ex. D]
3. Wilkie submitted the low responsive bid of \$87,150.00. [Ex. E]
4. Cherokee submitted the second low responsive bid of \$90,999.00. [Ex. F]
5. On December 23, 2008, DMH sent a letter to Lyth Clark, the Office of State Engineer project manager, with a copy to Wilkie informing Mr. Clark that DMH had determined Wilkie to be a non-responsible bidder. [Attached to Ex. A]
6. On December 23, 2008, DMH posted a Notice of Intent to Award a contract to Cherokee. [Ex. G]
7. On December 31, 2008, Wilkie submitted its protest to the CPOC.

DISCUSSION

A determination of responsibility is required by S.C. Code Ann. § 11-35-1810, which states the “[r]esponsibility of the bidder or offeror shall be ascertained for each contract let by the State...” The legal ability to perform is a State standard of responsibility. *See S.C. Code Ann. Regs. 19-445.2125(A)(4)*. A procurement officer’s determination of responsibility is final and conclusive unless it is “clearly erroneous, arbitrary, capricious, or contrary to law.” *See S.C. Code Ann. § 11-35-2410(A)*. The protestant has the burden of proving that the procurement officer’s determination is “clearly erroneous, arbitrary, capricious, or contrary to law.” *See Protest of Brantley Construction Co., Inc., Case No. 1999-3*.

The Contractors Licensing Act requires a contractor to possess the proper license at the time of bidding. *See S.C. Code Ann. § 40-11-30*. Moreover, S.C. Code Ann. § 11-40-200(B) precludes an owner from even considering the bid of an entity or individual that does not possess the proper license classifications or subclassifications at the time of bidding. Possession of the proper contractor license is an issue of responsibility. *Protest of Burkwood Construction Company, Inc., Case No. 1997-8; Protest of Roofco, Inc., Case No. 2000-14(I)*. If, at the time of bidding, Wilkie did not possess the proper license for bidding the work as a sole prime contractor, then DMH could not legally award a contract to Wilkie and DMH was required to declare Wilkie to be a non-responsible bidder.

At the time of bidding, Wilkie possessed a general contractor's license with GD and WL subclassifications. [Ex. H] The scope of the GD subclassification is set forth in SC Code Ann § 40-11-410(2)(d), which provides as follows:

(d) "Grading" which includes the soil preparation and rehabilitation of streets, roads, highways, railroad beds, building sites, parking lots, and storm sewers. This subclassification also includes work under the subclassification of Highway Incidental.

(e) "Highway Incidental" which includes highway work for grooving, milling, rehabilitating, and installing guardrails, gutters, highway signs, pavement marking, and painting.

The scope of the WL subclassification is set forth in SC Code Ann § 40-11-410(3)(c), which provides as follows:

"Water and Sewer Lines" which includes construction work on water mains, water service lines, water storage tanks, sewer mains, sewer lines, lift stations, pumping stations and appurtenances to water storage tanks, lift stations, pumping stations, pavement patching, backfill, and erosion control as a part of construction, and which includes connection at the building of all lines to the appropriate lines contained in commercial structures, installation and repair of a project involving manholes, the laying of pipe for storm drains and sewer mains, all necessary connections, and excavation and backfilling, and concrete work incidental thereto.

Because Wilkie was not licensed to perform concrete paving work, Wilkie planned to subcontract this work to Wiley Eason Construction. [See Wilkie letter of 12/22/08 attached to Ex. A] However, the Contractors Licensing Act places limitations on a contractor's ability to bid the Project as a sole prime contractor when the work includes work outside of his license. Title 40, Chapter 11, Section 340 of the South Carolina Code of Laws, as amended, provides as follows:

"An entity licensed under the classifications or subclassifications in Sections 40-11-410(1), (2), or (3) may act as a sole prime contractor on a project if **forty percent** or more of the work as measured by the total cost of construction falls under one or more of the licensee's license classification or subclassifications." (*emphasis added*)

In a letter to DMH's engineer for the Project, Civil Engineering Consulting Services, Inc. (CEC), Wilkie submitted the following cost breakdown of the work to support its position that it could act as a sole prime contractor on the project:

<u>Item of Work</u>	<u>Price</u>	<u>Performed by</u>
1. General	\$15,600	Wilkie
2. Demolition	\$12,100	Wilkie

3. Grading/Misc. Items	\$17,450	Wilkie
4. Concrete Work	<u>\$42,000</u>	Wiley Easton
Total	\$87,150	

In its letter, Wilkie argued that under this breakdown, it was licensed to perform 52% of the work. While presenting different arguments and using different mathematical formulas, Wilkie continues to rely on this breakdown in its letter of protest. However, in its determination of non-responsibility, DMH relied on the fact that the Contractors' Licensing Act did not regulate a portion of the work to be performed by Wilkie. DMH excluded the value of this unregulated work from the value of the work falling under Wilkie's license to conclude that Wilkie was licensed for less than 40% of the work.

Wilkie's cost breakdown, by listing very broad categories of "General" and "Misc. Items," leaves something to be desired. For instance, what items of work are included in these categories, are those items regulated by the Contractors' Licensing Act and, if so, are they covered by Wilkie's license? The inadequacy of Wilkie's cost breakdown for purposes of actually determining what work is covered by Wilkie's license raises the question about whose project estimate is used to determine whether a bidder has the proper license to bid a job as sole prime contractor.¹ Moreover, the presence of work not regulated by the Contractors' Licensing Act in the scope of work raises two additional questions: 1) what portion of the proposed work is unregulated, and 2) how does one deal with the unregulated work when determining the percentages of work falling under a contractor's license?

A review of the Contractors' Licensing Act does not provide clear answers to the questions raised in the previous paragraph. The Contractors' Licensing Board is the state authority primarily responsible for interpreting and enforcing the provisions of the Contractors' Licensing Act. By long standing agreement, the Licensing Board Staff provides the CPOC with advisory opinions concerning the Board's interpretation of the Licensing Act. The CPOC traditionally gives great weight to the opinion of the Licensing Board Staff. The Licensing Board's administrator advised the CPOC regarding the questions raised in the preceding paragraph. According to the administrator, the project architect/engineer's estimate is the proper estimate to use in determining the required license to perform the work. [Ex. I] According to the project engineer's estimate, the work of the project breaks down as follows:

¹ Using the contractor's numbers provided in response to an inquiry is inherently problematic. The numbers provided may be self-serving and inflate some numbers while deflating others to support the proposition that the contractor is properly licensed to bid as a sole prime contractor. Meanwhile, another bidder may provide a set of numbers that shows the opposite.

	Fewell	Quantity	Unit	Unit Price	Total
1	Mobilization, Bond, License and Permits	1	LS	\$ 2,500.00	\$ 2,500.00
2	Demolition and Disposal	1	LS	\$ 10,000.00	\$ 10,000.00
3	Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5	3" Stone Base	286	SY	\$ 12.00	\$ 3,432.00
6	8" 4000 psi Concrete Slab	286	SY	\$ 68.00	\$ 19,448.00
7	18" Curb and Gutter with dowels	290	LF	\$ 17.00	\$ 4,930.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control, Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Removal of Lift and Flowable Fill	1	LS	\$ 2,500.00	\$ 2,500.00
11	Three Concrete Slabs	5.5	CY	\$ 295.00	\$ 1,622.50
	Total Cost Fewell				\$ 49,232.50
	Stone	Quantity	Unit	Unit Price	Total
1	Mobilization, Bond, License and Permits	1	LS	\$ 2,500.00	\$ 2,500.00
2	Demolition and Disposal	1	LS	\$ 13,000.00	\$ 13,000.00
3	Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5	3" Stone Base	305	SY	\$ 12.00	\$ 3,660.00
6	8" 4000 psi Concrete Slab	305	SY	\$ 68.00	\$ 20,740.00
7	18" Curb & Gutter w/Dowels	221	LF	\$ 17.00	\$ 3,757.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Catch Basin	1	EA	\$ 1,000.00	\$ 1,000.00
11	Pedestrian Cross Walk Striping	1	LS	\$ 1,000.00	\$ 1,000.00
	Total Cost Stone				\$ 50,457.00
	TOTAL COST FEWELL AND STONE				\$ 99,689.50

Using the project engineer's estimate, the administrator advised the CPOC that items 1, 2, and 3 for both Fewell and Stone were unregulated. The administrator also advised the CPOC that for purposes of determining sole prime contractor percentages, one should not include these unregulated items of

work in either the construction total or the work that falls under the combined GD5 and WL5 license subclassifications. The administrator further advised the CPOC that only the work of items 4, 7, 8, 9, and 10 for Fewell and items 4, 7, 8, 9, 10, and 11 for Stone fell under the combined GD5 and WL5 license subclassifications.

Following the guidance of the Licensing Board administrator, the estimated cost of regulated work is \$69,689.50 and the estimated cost of the regulated work that Wilkie is licensed to perform is \$20,787.00. [Ex. J] The portion of the regulated work for which Wilkie is licensed is only 30% of the total cost of regulated work, 10% less than necessary to bid the work as a sole prime contractor. Therefore, Wilkie did not possess the proper license to bid the project as a sole prime contractor and DMH properly determined Wilkie to be a non-responsible bidder.

DECISION

It is the decision of the Chief Procurement Officer for Construction that DMH's determination that Wilkie Construction, LLC, was a non-responsible bidder was not clearly erroneous, arbitrary, capricious, or contrary to law.

For the foregoing reasons Protest denied.



John St. C. White
Chief Procurement Officer for Construction

26 Jan 09
Date

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

The South Carolina Procurement Code, in Section 11-35-4210, 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 by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (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 for disagreement 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 an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: www.procurementlaw.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 2008 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(4). . . . 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 hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2008 S.C. Act No. 310, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, a business must retain 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) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

J.C. Wilkie Construction, LLC
P.O. Box 1350
Lexington, SC 29071
t(803) 808-3220 • f(803) 808-3262

EXH. A

December 31, 2008

Mr. John St. C. White, PE
State Engineer
1201 Main Street Suite 600
Columbia, SC 29201

Reference: South Carolina Department of Mental Health – Inpatient Buildings – Deferred Maintenance – Stone and Fewell Pavilion Pavement Repairs
State Project Number: J12-9707-LC-P

Dear Mr. White,

I am submitting this letter to protest the contract award for the above referenced project. The job is South Carolina Department of Mental Health – Inpatient Buildings – Deferred Maintenance – Stone and Fewell Pavilion Pavement Repairs State Project Number – J12-9707-LC-P. The project as I interpret it is the rehabilitation of two streets/parking lots that serve two loading docks. The project includes removing asphalt pavement that has failed due to excessive loading and/or subsurface conditions and then replacing it with a thicker pavement section to include concrete paving. The project has incidentals that include installing sleeves, re-working catch basins, installing a manhole, and striping a new crosswalk on the new concrete pavement. The bid also includes a unit price for mucking in the event that the subsurface conditions caused the failure. The unit price would allow the department of mental health to know the price to repair.

We currently hold a GD5 and WL5 license classification. As defined, the Grading or GD Classification includes the soil preparation and rehabilitation of streets, roads, highways, railroad beds, building sites, parking lots, and storm sewers. This sub-classification also includes work under the sub-classification of Highway Incidental. The Highway Incidental or HI Classification includes work for grooving, milling, rehabilitating, and installing guardrails, gutters, highway signs, pavement marking, and painting.

James Berry with SCDMH and Theresa Hodge with Civil Engineering Consulting Services have called our license into question on this project. They have stated that we do not have the concrete paving classification on our license and the demolition of the pavement and curb are unregulated work. Due to the preceding factors, Mr. Berry states that we do not have the 40% required to be a prime contractor for the project. We contend that the entire project is a rehabilitation project and falls squarely within our license.

If we were to look at it their way and break this down farther than the attached letter does, then the only parts that aren't covered under our license is the concrete paving of \$38,380.00. This equates to 44% of the bid leaving our part with 56%. If you were to deduct the "demolition" as they are calling it, then the percentages work out to be 44% under our license, 44% covered by a

Page 2
Mr. John St. C. White
State Engineer

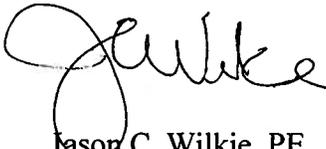
licensed subcontractor, and 12% as unregulated work. Either way that you look at it, we should be very much covered under our license classification. The difference in their percentages and ours is that they removed the concrete gutter and striping from us when it is actually covered under the HI classification.

SCDMH has dismissed our bid and awarded it to the next eligible contractor and we feel that this was not the proper action. We feel very strongly that this is a rehabilitation project and that we were well within our rights to bid the work. As a matter of fact, some of the existing curb remains, the drainage that is in place is being slightly modified, and then the pavement section is getting thicker to hold up to heavier loading. The definition of rehabilitate is "To restore to good condition, operation, or capacity". This particular job is to improve the existing parking lot to a status as it was new and to make it more structurally sound than before.

We would like the opportunity to discuss this issue with you further, so that we can hopefully be awarded this project that falls under our classifications and avoid any future problems.

Thanks for your help.

Sincerely,
J.C. Wilkie Construction, LLC



Jason C. Wilkie, PE
President

cc: James Berry, South Carolina Department of Mental Health
Theresa Hodge, Civil Engineering Consulting Services

P.O. Box 1350
Lexington, SC 29071
Phone: (803) 808-3220
Fax: (803) 808-3262

**J.C. Wilkie
Construction, LLC**

Fax

To: State Engineer From: J. C. Wilkie
 Fax: (803) 737-0639 Pages: 3
 Phone: _____ Date: 12/31/08
 Re: SCDMT Project CC: _____

Urgent For Review Please Comment Please Reply Please Recycle

● Comments:

See Attached.
thanks.

DEC31 '08 WED 3:53PM

RCUD MHO

MISSION STATEMENT

To support the recovery of people with mental illnesses.

December 23, 2008

Mr. Lyth B. Clark, P. E.
Office of the State Engineer
1201 Main St. Suite 600
Columbia, S. C. 29201

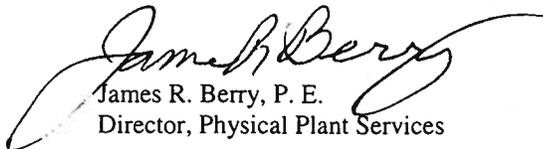
Subject: Non-Responsible Determination of Low Bidder

Ref: Project J12-9707-LC-P: Stone & Fewell Pavement Repairs

Dear Lyth,

SCDMH has determined the low bidder on the referenced project (JC Wilkie Construction) to be non-responsible for the following reason: JC Wilkie Construction has a General Contractor license GD5 and WL5. The GD5 classification includes the soil preparation and rehabilitation of streets, roads, highways, railroad beds, building sites, parking lots, and storm sewers. The work bid entails the complete reconstruction of concrete pavement features at Stone & Fewell Buildings. After reviewing JC Wilkie Construction's price breakdown, the amount of work as measured by the total cost of construction that falls under their license classification is less than the required 40%. Demolition is an unregulated work per LLR and therefore cannot be used in determining the 40%. Attached are four documents used in making this determination: (1) General Policy by the SC Contractor's Licensing Board Regarding Licensure Requirements for Bid Work Within South Carolina; (2) Section 40-11-340 of the Code of Laws of South Carolina; (3) document from the LLR website listing work not requiring a license by SC Contractor's Licensing Board; and (4) Dec. 22, 2008 letter from JC Wilkie Construction.

Sincerely,


James R. Berry, P. E.
Director, Physical Plant Services

CC: JC Wilkie Construction, LLC
Civil Engineering Consulting Services (Theresa Hodge)
Project File

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair, *Hartsville*
Joan Moore, Vice Chair, *Goose Creek*

Jane B. Jones, *Easley*
Harold E. Cheatham, Ph.D., *Clemson*

J. Buxton Terry, *Columbia*
H. Lloyd Howard, *Landrum*

J.C. Wilkie Construction, LLC
P.O. Box 1350
Lexington, SC 29071
(803) 808-3220

December 22, 2008

Civil Engineering Consulting Services, Inc.
2000 Park Street, Suite 101
Columbia, SC 29201
Fax: (803) 779-0528
Attn: Theresa Hodge

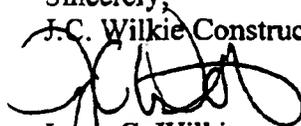
Reference:
SCDMH Inpatient Bldgs - Def. Maintenance
Stone and Fewell Pavilion Pavement Repairs
South Carolina Department of Mental Health

Per our telephone conversation today and conversations with the LLR, it is our understanding that JC Wilkie must perform 40% of the work associated with above referenced project under our general contractors' license. We feel our portion of the work is 52% of the job, which is well within the state guidelines. Per your request, a breakdown follows showing the distribution of the work for the project:

Total contract price:	\$87,150.00		
General:	\$15,600.00	Performed by:	JC WILKIE
Demolition: *	\$12,100.00		JC WILKIE
Grading/Misc. Items:	\$17,450.00		JC WILKIE
Concrete Work:	\$42,000.00		WILEY EASTON CONST.

Work to be completed by JC Wilkie: 52%
Work to be completed by Subs: 48%

Our subcontractor, Wiley Easton Construction Co, Inc., is currently licensed through the LLR under license number 99420, classifications AP4, CP4, GD4, and WL4. Thank you again for the opportunity to do business and completing the project referenced above. Please give me a call if there are any questions.

Sincerely,
J.C. Wilkie Construction, LLC

Jason C. Wilkie
Owner

* PER LLR, DEMOLITION IS UNREGULATED
WORK AND DOES NOT FACTOR INTO THE
40% REQUIREMENT.

Cc: Jim Berry (f) 803-935-5653



General Policy by the S. C. Contractors' Licensing Board Regarding Licensure Requirements for Bid Work within South Carolina

Upon review of the wording of the statutes, the Board has developed the following policy that addresses licensure for bidding a construction project that contains regulated work including the construction of recreational surfaces or golf courses.

Section §40-11-30 of the 1976 Code of Laws of South Carolina, as amended, prohibits an unlicensed entity or individual from performing or offering to perform regulated construction work if the total cost of the project is greater than \$5,000 and the nature of the work falls within one of the general or mechanical contractor major or subclassifications, a proper license is required for each regulated portion(s) of work, provided each portion exceeds \$5,000. An unlicensed or improperly licensed entity or individual may be subject up to a \$5,000 fine for bidding or engaging on a project without obtaining a proper contractor license. The total cost of construction, including all labor, profit, and material, regardless of who buys and pays for the materials, determines whether or not a license is required.

In order to determine if a contractor license is required for a construction project, it must be determined which license classification, if any, is required to be the prime contractor. A licensed general contractor may submit a bid for the entire project if 40% of the total cost of construction is within his/her license classification and group limitation. A general contractor holding a specialty classification or a mechanical contractor may submit a bid for the entire project if 51% of the total cost of construction is within his/her license classification and group limitation.

Should no scope of regulated work in the project equal or exceed 40%, any properly licensed general contractor licensee, with a portion of work in the project may bid the project. All regulated work not covered under the prime contractor's license must be subcontracted to properly licensed contractors. If the total cost of all unregulated work is 51% or more for a project and the project consists of some regulated work, an unlicensed entity or individual may bid the entire project provided the bidder has an active business that currently performs work related to the project. Consequently, the unlicensed entity or individual must subcontract any regulated work to properly licensed contractors when the total cost of each separate scope of regulated work exceeds \$5,000.

The owner of a construction project may elect to hire multiple prime contractors for all of the regulated work based upon 40-11-420(C) and hire any unlicensed entity or individual for work that is not regulated. If the owner is hiring separate multiple prime contractors for regulated work, all of the contractors hired for this work must be properly licensed regardless of the cost of the work.


Kimberly Linberger
Vice Chairman of the Board

Approved by the Board: October 19, 2006

proper financial statement must be submitted at any time when requested by the board. Failure to submit a proper financial statement is considered a violation of this chapter.

(B) An architect or engineer licensed in South Carolina who is monitoring the execution of design plans or who is performing as an on-site representative for construction quality control or quality assurance, or both, for a project owner is not a construction manager for the purposes of this section.

(C) An entity acting as a construction manager shall file a letter with the department designating one license being used to qualify for the practice of construction management pursuant to the requirements of this chapter. Complaints filed against construction managers who have qualified themselves as architects or engineers must be referred by the department to the appropriate board having jurisdiction over them. Those boards may impose disciplinary action and civil penalties as set forth in this chapter, or as otherwise provided by law. All other complaints filed against construction managers with a general contractor's license designation must be heard by the board and disciplinary action must be brought pursuant to this chapter. An entity's authority to practice as a construction manager may be revoked or suspended without other effect to the license held by that entity.

(D) The authority to assume the role of construction manager is granted to an entity holding a general or mechanical contractor's license or an architect's license or engineer's registration pursuant to the laws of this State. This authority does not permit architects and engineers to assume the role of general or mechanical contractors as defined in Section 40-11-20 unless properly licensed pursuant to this chapter. Construction managers may not perform design work themselves unless properly licensed as an architect or professional engineer. Entities performing construction themselves or holding construction contracts in their own name must be treated as general contractors or mechanical contractors, as appropriate, rather than construction managers for the purposes of this chapter, and must be licensed pursuant to the requirements of this chapter to perform that work. Construction managers may hire or terminate the various design professionals and prime contractors with the direction and approval of an owner.

SECTION 40-11-330. Joint venture bid.

Two or more licensed contractors may combine bids and submit a "Joint Venture Bid" if the contract does not exceed the highest license group limitations of the members in the joint venture. An unlicensed contractor may not be a party to a joint venture.

SECTION 40-11-340. Qualifications for acting as sole prime contractor.

An entity licensed under the classifications or subclassifications in Sections 40-11-410(1), (2), or (3) may act as a sole prime contractor on a project if forty percent or more of the work as measured by the total cost of construction falls under one or more of the licensee's license classifications or subclassifications. An entity licensed under the classifications or subclassifications in Section 40-11-410(4) and (5) may act as sole prime contractor if fifty-one percent or more of the work falls under one or more of the licensee's license classifications or subclassifications.

SECTION 40-11-350. Evidence of license as prerequisite to issuance of building permit; reporting violations.

A building official, or other authority charged with issuing building or other similar permits, of a county, municipality, or subdivision of a county or municipality shall refuse to issue a permit for an undertaking which would classify the applicant as a contractor under this chapter unless the applicant has furnished evidence that the applicant is either licensed as required by this chapter or exempt from the requirements of this chapter. A building official, or other authority charged with issuing building or other similar permits, shall report to the department the name and address of an entity believed to have violated this chapter by bidding or contracting for work which is regulated under this chapter.



**South Carolina Department of Labor, Licensing and Regulation
South Carolina Contractors' Licensing Board**

110 Centerview Drive, Columbia, S.C. 29210
PO Box 11329, Columbia, S.C. 29211-1329
Telephone (803) 896-4686 Fax (803) 896-4701

NO LICENSE REQUIRED BY SC CONTRACTORS' LICENSING BOARD

- AIR HANDLING EQUIPMENT
- AIR POLLUTION EQUIPMENT
- APARTMENT GUTTERS
- ASBESTOS REMOVAL (DHEC)
- BACKFLOW PREVENTER INSPECTOR (DHEC 803-898-3567)
- BILLBOARDS/SIGNS/SCORE BOARDS (SCDOT)
- BRIDGES ON GOLF COURSE (UNLESS CARS TRAVEL ACROSS THEM)
- CABLE WIRING/INSTALLATION
- CLEANING DUCTS
- CLEANING STORM DRAINS OR WATER/SEWER LINES
- CLEANING TANKS
- COMMUNICATIONS (TELEPHONES/COMPUTERS/SATELLITE DISHES FORTV)
- CONVEYORS
- DEMOLITION , PERMIT REQUIRED FOR ASBESTOS REMOVAL CALL(DHEC 803-898-4289)
- ELEVATORS (DEPT OF ELEVATORS 803-896-7630)
- FENCING
- FIRE SUPPRESSION SYSTEMS (State Fire Marshal licenses fire equipment 803-896-9800)
- FOOD SERVICE EQUIPMENT
- GENERATORS
- HEAT EXCHANGERS
- HOSPITAL EQUIPMENT
- HUMIDIFICATION EQUIPMENT
- IRRIGATION (BUILDING OFFICIALS)
- LABORATORY EQUIPMENT
- LANDSCAPING
- LOCKERS
- MACHINERY
- MATERIAL HANDLING EQUIPMENT
- OFFICE EQUIPMENT
- PAINTING (EXTERNAL)
- PILE DRIVING (FOR BUILDINGS) STEEL = NO, CONCRETE = YES
- PLANT EQUIPMENT (UNLESS SPECIFIED IN SC ACT/LAW)
- POOL PAINTING (INSIDE OF POOL)
- PRESSURE VESSELS
- PRISON/JAIL EQUIPMENT
- REFINERY EQUIPMENT
- SCALES (DEPT OF AGRICULTURE)
- SCHOOL EQUIPMENT
- SEPTIC TANKS (DHEC)
- TURBINES
- UNDERGROUND PETROLEUM TANKS/PUMPS/LINES (DHEC)
- VENTILATION HOODS
- VENTILATION SYSTEMS (UNTEMPERED) I.E. INDUSTRIAL PLANTS
- VINYL SIDING (IF REMOVING/APPLYING STRUCTURAL COMPONENT, NEED BD LICENSE)
- WELDING
- WELL DRILLING (ENVIRONMENTAL CERTIFICATION 803-896-4430)
- WORD PROCESSING EQUIPMENT

November 24, 2008

2

Volume 28, Issue 94

Description of Project: Asbestos abatement & demolition of the existing Wildy Gym. Construction of a new 48-space surface parking lot, new brick & metal fence around the perimeter of the property, new brick & precast memorial & all associated landscaping. The contractor will be subject to a performance appraisal as defined in the Manual for Planning & Execution of State Permanent Improvements, Part II

Construction Cost Range: \$100,000 - \$500,000

Architect/Engineer: KRA, Inc.

A/E Contact: Kevin Grenier

A/E Address: 18 Oak Forest Rd., Ste. C, Bluffton, SC 29910

A/E Telephone: (843) 815-2021

A/E Fax: (843) 815-2022

A/E E-mail: krq@krasc.com

Plans on File At:

AGC: Charleston, Savannah

Dodge: Charleston, Savannah

Plans May Be Obtained From: Savannah Blueprint, 21 Kitties Landing Rd., Bluffton, SC 29910, (843) 815-4050

Plan Deposit: Cost, non-refundable

Pre-Bid Conf./Site Visit: Mandatory

Pre-Bid Date/Time: 12/3/08 - 2:00pm

Place: TCL, Building 3, Room 101 Conference Room, 921 Ribaut Rd., Beaufort

Agency/Owner: Technical College of the Lowcountry

Name & Title of Agency Coordinator: J. Clyde Hinchey, Vice President for Finance

Address: PO Box 1288, Beaufort, SC 29901

Telephone: (843) 525-8249

Fax: (843) 525-8330

E-mail: chincher@tcl.edu

Bid Due Date/Time: 12/18/08 - 2:00pm

Place: TCL, Building 3, Room 101 Conference Room, 921 Ribaut Rd., Beaufort

Hand Deliver Bids To: Technical College of the Lowcountry, Finance Office, Building 3, 921 Ribaut Rd., Beaufort, SC 29902

Mail Bids To: Technical College of the Lowcountry, Finance Office, PO Box 1288, Beaufort, SC 29901

Project Name: INPATIENT BUILDINGS - DEFERRED MAINTENANCE - STONE & FEWELL PAVILION PAVEMENT REPAIRS

Project Number: J12-9707-LC-P

Location: SCDMH, Harden Street, Columbia

Applicable SCBO Notes: 2, 4, & 5

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Demolish existing pavement & appurtenances at

loading dock area (Fewell Building); construct new pavement & appurtenances. Demolish existing pavement & appurtenances at loading dock area (Stone Building); construct new pavement & appurtenances. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: \$50,000 - \$100,000

Architect/Engineer: Civil Engineering Consulting Services, Inc.

A/E Contact: Theresa Hodge, PE

A/E Address: 2000 Park St., Ste. 201, Columbia, SC 29201

A/E Telephone: (803) 779-0311

A/E Fax: (803) 779-0528

A/E E-mail: hodgeth@cecsinc.com

Plans on File At:

AGC: Columbia

Dodge: Columbia

Plans May Be Obtained From: Civil Engineering Consulting Services, Inc.

Plan Deposit: \$40, non-refundable

Pre-Bid Conf./Site Visit: Non-mandatory

Pre-Bid Date/Time: 12/14/08 - 2:00pm

Place: 2200 Harden St., Roddy Pavilion, Ward 136, Columbia

Agency/Owner: SC Department of Mental Health

Name & Title of Agency Coordinator: Ray Nanney, Drafter III

Address: 7901 Farrow Rd., Building 4, Columbia, SC 29203

Telephone: (803) 935-5633

Fax: (803) 935-5653

Bid Due Date/Time: 12/18/08 - 2:00pm

Place: 7901 Farrow Rd., Building 4, Columbia

Hand Deliver Bids To: SCDMH, Physical Plant Services, Building 4, 7901 Farrow Rd., Columbia, SC 29203

Mail Bids To: SCDMH, Physical Plant Services, Building 4, 7901 Farrow Rd., Columbia, SC 29203

Project Name: E.S.C. SENECA WORKFORCE CENTER - PARKING LOT EXPANSION & REPAIRS

Project Number: F03-N250-MJ

Location: Seneca, SC

Applicable SCBO Notes: 2, 4, & 5

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Expansion of existing parking lot, including a connecting driveway, site demolition, grading & paving, curb & gutter, concrete sidewalks, storm drainage, grassing & other miscellaneous work shown on the drawings & specifications. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: <\$100,000

Architect/Engineer: Davis & Floyd, Inc.

A/E Contact: Brent Robertson, PE

A/E Address: 1319 Hwy. 72 / 221 East, Greenwood, SC 29649

A/E Telephone: (864) 229-5211

A/E Fax: (864) 229-7844

A/E E-mail: broberts@davisfloyd.com

Plans on File At:

AGC: Greenville

Dodge: Greenville

Other: Reed Construction Data & HCAC Plan Room, Greenville

Plans May Be Obtained From: A&E at address noted above

Plan Deposit: \$50.00, refundable

Pre-Bid Conf./Site Visit: None

Agency/Owner: SC State Budget & Control Board / General Services Division

Name & Title of Agency Coordinator:

Jose Suarez, Project Manager

Address: 915 Main St., Second Floor, Columbia, SC 29201

Telephone: (803) 734-6751

Fax: (803) 734-6815

E-mail: jsuarez@gcs.sc.gov

Bid Due Date/Time: 12/18/08 - 2:00pm

Place: Room 225, 915 Main St., Columbia

Hand Deliver Bids To: Construction & Planning Unit, Attn.: Jose Suarez, Second Floor, 915 Main St., Columbia, SC 29201

Mail Bids To: Construction & Planning Unit, Attn.: Jose Suarez, Second Floor, 915 Main St., Columbia, SC 29201

Project Name: OCONEE COUNTY SPEC BUILDING II

Project Number: RFP 08-11

Location: Commerce Center, located on Highway 11 near the intersection of Highway 11 & U.S. 123 / 76

Performance Bond Required: Yes, 100%

Payment Bond Required: Yes, 100%

Description of Project: Oconee County is seeking sealed proposals for construction of an approximately 50,000 SF spec building, allowing for future expansion up to 150,000 SF. Also included is construction of a detention pond that will serve this building & surrounding 19 acres. Different financing options will be considered in the award as well as traditional construction

Architect/Engineer: N/A

Pre-Bid Conf./Site Visit: Non-mandatory

Pre-Bid Date/Time: 12/3/08 - 11:00am

Place: On site

Agency/Owner: Oconee County

Name & Title of Agency Coordinator: Robyn Courtright, Procurement Director

Address: 415 South Pine St., Room 104, Walhalla, SC 29691

Telephone: (864) 638-4141

Bid Closing Date/Time: 12/18/08 - 2:00pm

Place: Oconee County Procurement Office, 415 South Pine St., Walhalla, SC 29691

White, John

From: Clark, Lyth
Sent: Wednesday, January 14, 2009 1:13 PM
To: jwhite@mmo.sc.gov
Subject: Bid Protest SCDMH Inpatient Building Case No 2009-011 PIP J12-9707-LC-P

Attachments: EstimateFewell-Stone110308.xls



EstimateFewell-Stone110308.xls...

Dear Mr. White:

Attached is the design engineer's cost breakdown for the project, J12-9707-LC-P. If you need anything else, please let me know.

Sincerely,
Lyth

Lyth B. Clark, Jr., P.E.
Office of State Engineer
1201 Main Street, Suite 600
Columbia, SC 29201
803-737-0767 (tele)
803-737-0639 (fax)
lclark@mmo.sc.gov
<http://www.mmo.sc.gov/MMO/ose/MMO-ose-index.phtm>

-----Original Message-----

From: James Berry [mailto:JRB63@SCDMH.ORG]
Sent: Wednesday, January 14, 2009 12:31 PM
To: Clark, Lyth
Subject: Fwd:

Estimate from Theresa.

James R. Berry, P.E.
Director, Physical Plant Services
7901 Farrow Road, Building 4
Columbia, SC 29203
Voice: (803) 935-5655 Fax: (803) 935-5653 jrb63@scdmh.org

>>> "Theresa Hodge" <hodgeth@cecsinc.com> 1/14/2009 12:15 PM >>>

Jim,

Here is the estimate.

Theresa H. Hodge, P.E.

Director of Utilities

Civil Engineering Consulting Services, Inc.

2000 Park Street

Columbia, South Carolina 29201

(803) 779-0311 fax (803) 779-0528

email: hodgeth@cecsinc.com

ESTIMATED CONSTRUCTION COST
Impatient Deferred Maintenance/Stone and Fewell Pavement Repair

Fewell	Quantity	Unit	Unit Price	Total
1 Mobilization, Bond, License and Permits	1	LS	\$ 2,500.00	\$ 2,500.00
2 Demolition and Disposal	1	LS	\$10,000.00	\$ 10,000.00
3 Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00
4 5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5 3" Stone Base and 8" 4000 psi Concrete Slab	286	SY	\$ 80.00	\$ 22,880.00
6 18" Curb and Gutter with dowels	290	LF	\$ 17.00	\$ 4,930.00
7 Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
8 Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
9 Removal of Lift and Flowable Fill	1	LS	\$ 2,500.00	\$ 2,500.00
10 Three Concrete Slabs	5.5	CY	\$ 295.00	\$ 1,622.50
TOTAL COST FEWELL				\$ 49,232.50

Stone	Quantity	Unit	Unit Price	Total
1 Mobilization, Bond, License and Permits	1	LS	\$ 2,500.00	\$ 2,500.00
2 Demolition and Disposal	1	LS	\$13,000.00	\$ 13,000.00
3 Traffic Control	1	LS	\$ 1,000.00	\$ 1,000.00
4 5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5 3" Stone Base and 8" 4000 psi Concrete Slab	305	SY	\$ 80.00	\$ 24,400.00
6 18" Curb and Gutter with dowels	221	LF	\$ 17.00	\$ 3,757.00
7 Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
8 Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
9 Catch Basin	1	EA	\$ 1,000.00	\$ 1,000.00
10 Pedestrian Cross Walk	1	LS	\$ 1,000.00	\$ 1,000.00
TOTAL COST STONE				\$ 50,457.00

TOTAL COST FEWELL AND STONE **\$ 99,689.50**

White, John

From: Clark, Lyth
Sent: Wednesday, January 14, 2009 5:04 PM
To: jwhite@mmo.sc.gov
Subject: FW:Bid Protest SCDMH Inpatient Building Case No 2009-011 PIP J12-9707-LC-P

Dear Mr. White:

The breakdown is below. I hope that this helps.

Sincerely,
Lyth

Lyth B. Clark, Jr., P.E.
Office of State Engineer
1201 Main Street, Suite 600
Columbia, SC 29201
803-737-0767 (tele)
803-737-0639 (fax)
lclark@mmo.sc.gov
<http://www.mmo.sc.gov/MMO/ose/MMO-ose-index.phtm>

-----Original Message-----

From: James Berry [mailto:JRB63@SCDMH.ORG]
Sent: Wednesday, January 14, 2009 4:56 PM
To: Clark, Lyth
Subject: Fwd:

info

James R. Berry, P.E.
Director, Physical Plant Services
7901 Farrow Road, Building 4
Columbia, SC 29203
Voice: (803) 935-5655 Fax: (803) 935-5653 jrb63@scdmh.org

>>> "Theresa Hodge" <hodgeth@cecsinc.com> 1/14/2009 4:20 PM >>>
Jim,

In reviewing our break down for the stone base and concrete for Fewell and Stone we recommend the following based on the \$80 / sy.

\$68 /sy concrete (to include rebar, joints and finish)

\$12 / sy base stone

Theresa

Theresa H. Hodge, P.E.

Director of Utilities

Civil Engineering Consulting Services, Inc.

2000 Park Street

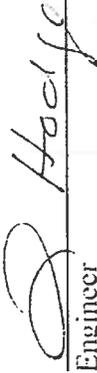
Columbia, South Carolina 29201

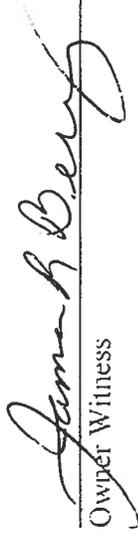
(803) 779-0311 fax (803) 779-0528

email: hodgeth@cecsinc.com

SCDMH Inpatient – Deferred Maintenance Stone and Fewell Pavement Repair
 State Project No. J12-9707-LC-P
 Bid Opening – December 18, 2008

Contractor	Bid	Subcon. List	Bid Bond	Acknow. Add.	Signed Bid
Cherokee, Inc. PO Box 90448 Columbia, SC 29290	90.999	Yes	Yes	Yes	Yes
Storage Development 230 Colleton Avenue SE Aiken, SC 29801	148.350	Yes	Yes	Yes	Yes
Watts & Associates 445 Mikom Road Sumter SC 29151	Non responsive	Yes	Not on 335	Yes	Yes
Armstrong Contractors 600 Longtown Road Columbia, SC 29229	100.760 (did not total)	No	Yes	Yes	Yes
Preferred Construction	No Bid				
Willingham Landscaping	No Bid				
JC Wilkie Construction 349 Buck Corley Road Lexington, SC 29073	Non Responsible	No	Yes	Yes	Yes
Lawrence Construction	No Bid				


 Engineer


 Owner Witness



SE-330
Bid Form

2008 Edition

Bids shall be submitted only on SE-330

BID SUBMITTED BY: J.C. Wilkie Construction, LLC
(Bidder's Name)

BID SUBMITTED TO: SC Department of Mental Health
(Agency Name)

FOR PROJECT: J12-9707-LC-P Inpatient Bldgs - Deferred Maintenance - Stone and Fewell Pavilion Pavement Repair
(Number) (Name)

OFFER

- In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into a Contract with the AGENCY in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.
- Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, BIDDER has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

Bid Bond with Power of Attorney Electronic Bid Bond Cashier's Check
(BIDDER check one)

3. BIDDER, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. BIDDER acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:

ADDENDUM No: 1 12/5/08

5. BIDDER accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. BIDDER agrees that this Bid, including all Alternate Base Bids, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that BIDDER may agree to in writing upon request of the AGENCY.

6. BIDDER herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

6.1 BASE BID WORK (BASE BID NO. 1) (as indicated in the Bidding Documents and generally described as follows):
Provide new pavement for loading dock area at Fewell and Stone complete including demolition

Fewell Pavilion Repair	\$	<u>40650</u>
Stone Pavilion Repair	\$	<u>46500</u>

\$ 87,150, which sum is hereafter called the **BASE BID No. 1**.

(enter BASE BID in figures only)

SE-330 - Bid Form

6.2 ALTERNATE BASE BIDS (as indicated in the Bidding Documents and generally described as follows):

	<u>DESCRIPTION</u>	<u>AMOUNT</u>
BASE BID NO. 2	_____	_____
	_____	_____
	_____	_____
	_____	_____
BASE BID NO. 3	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

6.3 UNIT PRICE WORK

BIDDER offers for the Agency's consideration and use the following UNIT PRICES. The UNIT PRICES offered by BIDDER indicate the amount to be added to or deducted from the Contract Sum for each item-unit combination. UNIT PRICES include all costs to the Agency, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Agency reserves the right to include or not to include any of the following UNIT PRICES in the Contract and to negotiate the UNIT PRICES with BIDDER.

<u>No.</u>	<u>ITEM</u>	<u>Base Bid Qty.</u>	<u>Unit of Measure</u>	<u>ADD</u>	<u>DEDUCT</u>
1	Muck Excavation	15	CY	30 ⁰⁰	
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

SE-330 Bid Form

2008 Edition

TIME OF CONTRACT PERFORMANCE

BIDDER hereby agrees to complete the construction work in accordance with the following schedule:

1. The **DATE OF COMMENCEMENT** shall be established in Form SE-390, *Notice to Proceed*. The BIDDER shall not incur any expense chargeable to this Project until the Contract has been executed by both the Agency and the Contractor, and a Notice to Proceed has been issued.
2. The **DATE OF SUBSTANTIAL COMPLETION**, to be documented on Form SE-550A, *Certificate of Substantial Completion*, shall be (120 day) CALENDAR DAYS from the **DATE OF COMMENCEMENT** set forth in the SE-390, subject to adjustments as provided in the Contract Documents.
3. The **DATE OF FINAL COMPLETION**, to be documented on Form SE-560C, *Certificate of Final Completion*, shall be (30 days) CALENDAR DAYS from the **DATE OF SUBSTANTIAL COMPLETION**, subject to adjustments as provided in the Contract Documents.

LIQUIDATED DAMAGES AND EARLY COMPLETION AWARD

- 1 The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step One Liquidated Damages** the amount of \$200 for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** exceeds the specified or adjusted Contract time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.
- 2 The undersigned further agrees that from the compensation to be paid, the Agency shall retain as **Step Two Liquidated Damages** the amount of \$100 for each calendar day the actual construction time required to achieve **FINAL COMPLETION** exceeds the specified or adjusted Contract Time for **FINAL COMPLETION**, as provided in the Contract Documents.
- 3 The undersigned further agrees that in full and complete satisfaction for the best efforts of the undersigned to achieve **SUBSTANTIAL COMPLETION** before the date established above, the Agency shall pay the undersigned an **Early Completion Award** in the amount of -\$0- for each calendar day the actual construction time required to achieve **SUBSTANTIAL COMPLETION** is less than the originally specified Contract Time for **SUBSTANTIAL COMPLETION**, as provided in the Contract Documents.

AGREEMENTS

By submitting this Bid, BIDDER hereby agrees to the following terms and conditions:

1. An incomplete Bid, or information not requested that is written on or attached to this Bid Form that could be considered a qualification of the Bid, may be cause for rejection of the Bid.
2. The failure of the BIDDER to indicate a price for an **ALTERNATE BASE BID** shall render the Bid non-responsive. A typed or printed "No Bid", or words of similar meaning, shall render the Bid non-responsive.
3. The BIDDER shall list only **SUBCONTRACTORS** (as defined in the Bidding Documents) who are qualified to perform items of work as specified in the Bidding Documents or as required by any material or equipment substitutions approved at the time of bidding. No BIDDER whose Bid is accepted shall substitute another entity as **SUBCONTRACTOR** in place of the **SUBCONTRACTOR** listed in the original Bid, except for one or more of the reasons allowed by the SC Code of Laws.
4. The failure of the BIDDER to provide the name(s) of listed **SUBCONTRACTORS** in accordance with the SC Code of Laws shall render the Bid non-responsive.
5. Unless otherwise provided in the Bidding Documents, BIDDER will provide Performance and Labor and Material Payment Bonds, each in the amount equal to 100% of the Contract Award, as a condition of execution of the Contract. Failure to supply such bonds as required by the Contract Documents shall result in cancellation of the Notice of Intent to Award and forfeiture of the Bid Bond.
6. BIDDER agrees to provide all information requested by the AGENCY to support the AGENCY'S evaluation and determination of the BIDDER'S responsibility, including completion of Form SE-350, *Questionnaire for Contractors*. The Questionnaire shall be completed fully and returned to the AGENCY within **SEVEN (7) DAYS** from date of receipt by the BIDDER by certified mail. The completed Form SE-350 must be received by the Agency no later than the close of business on the seventh day. Failure by BIDDER to supply requested information with respect to responsibility may be grounds for a determination of non-responsibility.
7. The BIDDER certifies that it will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws, and shall comply with the requirements set forth in Title 44, Chapter 107.

SE-330 Bid Form

8. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State.

9. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

N/A _____
(Electronic Bid Bond Number) (Signature and Title)

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 57-1123508
OR
SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

GDS WLS _____
(Classification) (Subclassification) (Limitations)

6105138
(SC Contractor's License Number)

SIGNATURE

Jason C. Wilkie, J.C. Wilkie Construction, LLC
(Legal Name of Person, Firm or Corporation Submitting Bid)

P.O. Box 1350, Lexington, SC 29071
(Mailing Address for the above)

[Signature]
BY: (Signature)

12/18/08
(Date)

Resident
(Title)

803-800-3220
(Phone)



SE-335 Bid Bond

2008 Edition

KNOW ALL PERSONS BY THESE PRESENTS THAT

JC Wilkie Construction, LLC

(Insert full name and address or legal title of Bidder)

hereinafter referred to as "Principal," and

Western Surety Company

(Insert full name and address of principal place of business of Surety)

a corporation duly organized and existing under the laws of the State of South Dakota, with its principal office in the City of Souix Falls, and authorized to transact business in this State, hereinafter called the "Surety", are jointly and severally held and firmly bound unto

South Carolina Department of Mental Health

(Insert full name of Agency)

hereinafter referred to as "Obligee", the sum of _____, being the sum of the Bond to which payment the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted to Obligee the accompanying bid incorporated by reference herein, dated as shown, to enter into a contract in writing for

J12-9707-LC-P

Inpatient Bldgs - Deferred Maintenance - Stone and Fewell Pavilion Pavement Repairs

(Insert the State Project Number & Name as found on the SE-330, Bid Form)

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that default of Principal shall occur upon the failure of the Principal to deliver, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents. This obligation shall be null and void if the Obligee shall accept Principal's Bid and Principal delivers, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents; or all Bids are rejected by Obligee; or Obligee fails to issue a Notice of Intended Award to Principal within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Principal). Payment under this Bond shall be due and payable in full upon default of Principal and within 30 calendar days after receipt by Principal and Surety of written notice of default from Obligee, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue the Notice of Intended Award agreed to in writing by Obligee and Principal. Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the Dispute Resolution process defined in the Bidding Documents and the laws of the State of South Carolina. Surety shall cause to be attached to the Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

IN WITNESS WHEREOF, Surety and Principal, intending to be legally bound hereby, subject to the terms stated above, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

DATED this 18th day of December, 2008 BOND NUMBER n/a

PRINCIPAL
JC Wilkie Construction, LLC

BY: [Signature]
(Principal's Name)
(Signature and Title)

ATTEST: [Signature], Witness
(Signature and Title)

SURETY
Western Surety Company

BY: [Signature], Attorney-in-fact
(Surety's Name)
(Signature and Title) (Attach Power of Attorney)

ATTEST: [Signature], Witness
(Signature and Title)

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Thomas M Albus, Buck Leigh, Individually

of Columbia, SC, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 17th day of October, 2006.



WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 17th day of October, 2006, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell

D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 18th day of December, 2008.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary



SE-330
Bid Form

2008 Edition

Bids shall be submitted only on SE-330

BID SUBMITTED BY: CHEROKEE, INC.
(Bidder's Name)

BID SUBMITTED TO: SC Department of Mental Health
(Agency Name)

FOR PROJECT: J12-9707-LC-P Inpatient Bldgs - Deferred Maintenance - Stone and Fewell Pavilion Pavement Repair
(Number) (Name)

OFFER

1. In response to the Form SE-310, *Invitation for Construction Bids*, and in compliance with the *Instructions to Bidders* for the above-named Project, the undersigned **BIDDER** proposes and agrees, if this Bid is accepted, to enter into a Contract with the **AGENCY** in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, **BIDDER** has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

Bid Bond with Power of Attorney Electronic Bid Bond Cashier's Check
(**BIDDER** check one)

3. **BIDDER**, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form, it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. **BIDDER** acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:
ADDENDUM No: 1 12/5/2008

5. **BIDDER** accepts all terms and conditions of the *Invitation for Construction Bids*, including, without limitation, those dealing with the disposition of Bid Security. **BIDDER** agrees that this Bid, including all Alternate Base Bids, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that **BIDDER** may agree to in writing upon request of the **AGENCY**.

6. **BIDDER** herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

6.1 BASE BID WORK (BASE BID NO. 1) (as indicated in the Bidding Documents and generally described as follows):

<u>Provide new pavement for loading dock area at Fewell and Stone complete including demolition</u>	
Fewell Pavilion Repair	\$ <u>42,400⁰⁰</u>
Stone Pavilion Repair	\$ <u>48,599⁰⁰</u>

\$90,999⁰⁰, which sum is hereafter called the **BASE BID No. 1**.
(enter BASE BID in figures only)

SE-330 - Bid Form

6.2 ALTERNATE BASE BIDS (as indicated in the Bidding Documents and generally described as follows):

	<u>DESCRIPTION</u>	<u>AMOUNT</u>
BASE BID NO. 2	_____	_____
	_____	_____
	_____	_____
	_____	_____
BASE BID NO. 3	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

6.3 UNIT PRICE WORK

BIDDER offers for the Agency's consideration and use the following UNIT PRICES. The UNIT PRICES offered by BIDDER indicate the amount to be added to or deducted from the Contract Sum for each item-unit combination. UNIT PRICES include all costs to the Agency, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Agency reserves the right to include or not to include any of the following UNIT PRICES in the Contract and to negotiate the UNIT PRICES with BIDDER.

<u>No.</u>	<u>ITEM</u>	<u>Base Bid Qty.</u>	<u>Unit of Measure</u>	<u>ADD</u>	<u>DEDUCT</u>
1	Muck Excavation	15	CY	\$25 ⁰⁰ /CY.	\$-0-
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

TIME OF CONTRACT PERFORMANCE

BIDDER hereby agrees to complete the construction work in accordance with the following schedule:

1. The DATE OF COMMENCEMENT shall be established in Form SE-390, *Notice to Proceed*. The BIDDER shall not incur any expense chargeable to this Project until the Contract has been executed by both the Agency and the Contractor, and a Notice to Proceed has been issued.
2. The DATE OF SUBSTANTIAL COMPLETION, to be documented on Form SE-550A, *Certificate of Substantial Completion*, shall be (120 day) CALENDAR DAYS from the DATE OF COMMENCEMENT set forth in the SE-390, subject to adjustments as provided in the Contract Documents.
3. The DATE OF FINAL COMPLETION, to be documented on Form SE-560C, *Certificate of Final Completion*, shall be (30 days) CALENDAR DAYS from the DATE OF SUBSTANTIAL COMPLETION, subject to adjustments as provided in the Contract Documents.

LIQUIDATED DAMAGES AND EARLY COMPLETION AWARD

1. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as Step One Liquidated Damages the amount of \$200 for each calendar day the actual construction time required to achieve SUBSTANTIAL COMPLETION exceeds the specified or adjusted Contract time for SUBSTANTIAL COMPLETION, as provided in the Contract Documents.
2. The undersigned further agrees that from the compensation to be paid, the Agency shall retain as Step Two Liquidated Damages the amount of \$100 for each calendar day the actual construction time required to achieve FINAL COMPLETION exceeds the specified or adjusted Contract Time for FINAL COMPLETION, as provided in the Contract Documents.
3. The undersigned further agrees that in full and complete satisfaction for the best efforts of the undersigned to achieve SUBSTANTIAL COMPLETION before the date established above, the Agency shall pay the undersigned an Early Completion Award in the amount of -0- for each calendar day the actual construction time required to achieve SUBSTANTIAL COMPLETION is less than the originally specified Contract Time for SUBSTANTIAL COMPLETION, as provided in the Contract Documents.

AGREEMENTS

By submitting this Bid, BIDDER hereby agrees to the following terms and conditions:

1. An incomplete Bid, or information not requested that is written on or attached to this Bid Form that could be considered a qualification of the Bid, may be cause for rejection of the Bid.
2. The failure of the BIDDER to indicate a price for an ALTERNATE BASE BID shall render the Bid non-responsive. A typed or printed "No Bid", or words of similar meaning, shall render the Bid non-responsive.
3. The BIDDER shall list only SUBCONTRACTORS (as defined in the Bidding Documents) who are qualified to perform items of work as specified in the Bidding Documents or as required by any material or equipment substitutions approved at the time of bidding. No BIDDER whose Bid is accepted shall substitute another entity as SUBCONTRACTOR in place of the SUBCONTRACTOR listed in the original Bid, except for one or more of the reasons allowed by the SC Code of Laws.
4. The failure of the BIDDER to provide the name(s) of listed SUBCONTRACTORS in accordance with the SC Code of Laws shall render the Bid non-responsive.
5. Unless otherwise provided in the Bidding Documents, BIDDER will provide Performance and Labor and Material Payment Bonds, each in the amount equal to 100% of the Contract Award, as a condition of execution of the Contract. Failure to supply such bonds as required by the Contract Documents shall result in cancellation of the Notice of Intent to Award and forfeiture of the Bid Bond.
6. BIDDER agrees to provide all information requested by the AGENCY to support the AGENCY'S evaluation and determination of the BIDDER'S responsibility, including completion of Form SE-350, *Questionnaire for Contractors*. The Questionnaire shall be completed fully and returned to the AGENCY within SEVEN (7) DAYS from date of receipt by the BIDDER by certified mail. The completed Form SE-350 must be received by the Agency no later than the close of business on the seventh day. Failure by BIDDER to supply requested information with respect to responsibility may be grounds for a determination of non-responsibility.
7. The BIDDER certifies that it will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws, and shall comply with the requirements set forth in Title 44, Chapter 107.

SE-330 Bid Form

2008 Edition

- 8. At any time prior to the issuance of the Notice to Proceed for this Project, this Contract may be canceled for the convenience of the State.
- 9. Neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the Form SE-335 included in the Bidding Documents.

 (Electronic Bid Bond Number) (Signature and Title)

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 57-0279383
 OR
 SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

BDS, GDS, APS, CPS,
NIS, WLS, WPS _____ unlimited
 (Classification) (Subclassification) (Limitations)

G-12263
 (SC Contractor's License Number)

SIGNATURE

CHEROKEE, INC
 (Legal Name of Person, Firm or Corporation Submitting Bid)

PO Box 90448, COLUMBIA, SC 29290
 (Mailing Address for the above)

BY: William Williams _____ 12-18-08
 (Signature) (Date)

V.P _____ 803/776-4870
 (Title) (Phone)



SE-335 Bid Bond

KNOW ALL PERSONS BY THESE PRESENTS THAT

Cherokee, Inc. PO Box 90448 Columbia, SC 29290

(Insert full name and address or legal title of Bidder)

hereinafter referred to as "Principal," and

Safeco Insurance Company of America, Seattle WA

(Insert full name and address of principal place of business of Surety)

a corporation duly organized and existing under the laws of the State of WA, with its principal office in the City of Seattle, and authorized to transact business in this State, hereinafter called the "Surety", are jointly and severally held and firmly bound unto

South Carolina Department of Mental Health

(Insert full name of Agency)

hereinafter referred to as "Obligee", the sum of Five percent of the amount bid (5%), being the sum of the Bond to which payment the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted to Obligee the accompanying bid incorporated by reference herein, dated as shown, to enter into a contract in writing for

J12-9707-LC-P Inpatient Bldgs - Deferred Maintenance - Stone and Fewell Pavilion Pavement Repairs

(Insert the State Project Number & Name as found on the SE-330, Bid Form)

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that default of Principal shall occur upon the failure of the Principal to deliver, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents. This obligation shall be null and void if the Obligee shall accept Principal's Bid and Principal delivers, within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Obligee), the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents; or all Bids are rejected by Obligee; or Obligee fails to issue a Notice of Intended Award to Principal within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Principal). Payment under this Bond shall be due and payable in full upon default of Principal and within 30 calendar days after receipt by Principal and Surety of written notice of default from Obligee, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue the Notice of Intended Award agreed to in writing by Obligee and Principal. Any dispute, suit, action or proceeding arising out of or relating to this Bond shall be governed by the Dispute Resolution process defined in the Bidding Documents and the laws of the State of South Carolina. Surety shall cause to be attached to the Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

IN WITNESS WHEREOF, Surety and Principal, intending to be legally bound hereby, subject to the terms stated above, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

DATED this 18 day of December 2008; BOND NUMBER Bid Bond

PRINCIPAL

Cherokee, Inc.

(Principal's Name)

BY: [Signature] V.P.

(Signature and Title)

ATTEST: [Signature] P.M.

(Signature and Title)

SURETY

Safeco Insurance Company of America

(Surety's Name)

BY: [Signature]

(Signature and Title) (Attach Power of Attorney)

Catherine L. McMillan, Attorney In Fact

ATTEST: [Signature]

(Signature and Title)

Shanna Roberts, Account Manager



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 12745

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****THOMAS H. MCCARLEY III; CATHERINE L. MCMILLAN; Knoxville, Tennessee*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 5th day of November, 2008

[Handwritten signature of Edmund C. Kenealy]

[Handwritten signature of Timothy A. Mikolajewski]

Edmund C. Kenealy, Secretary

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint Individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business...

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Edmund C. Kenealy, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 18 day of December, 2008



[Handwritten signature of Edmund C. Kenealy]

Edmund C. Kenealy, Secretary

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SE-370 Notice of Intent to Award

OFFICE OF STATE ENGINEER
JAN 05 2009

2008 Edition

AGENCY: South Carolina Department of Mental Health

(Agency Name)

PROJECT: J12-9707-LC-P

(Project Number)

SCDMH Inpatient Deferred Maint.: Stone & Fewell Pavement Repair

(Project Name)

TO ALL BIDDERS:

The Agency has determined that the below-named Bidder is responsible in accordance with the requirements of the Bidding Documents and has submitted the lowest responsive Bid. The Agency hereby announces its intent to enter into a contract with this Bidder for the construction of the above-named Project, subject to the provisions of SC law.

NAME OF BIDDER(S): Cherokee, Inc.

DATE BIDS WERE RECEIVED: 12/18/2008

AMOUNT OF BASE BID: \$ 90,999.00

ALTERNATE(S) ACCEPTED: # n/a Total: \$ n/a

TOTAL AMOUNT OF BASE BID WITH ALTERNATE(S): \$ 90,999.00

Remarks: (In accordance with Chapter 6 of the OSE Manual, explain any negotiations that resulted in a change in either the Base Bid or the accepted Bid Alternates)

RIGHT TO PROTEST:

Any actual bidder, offeror, contractor or subcontractor who is aggrieved in connection with the intended award or award of this Contract may protest to the State Engineer in accordance with Section 11-35-4210 of the SC Code of Laws at: CPO, Office of State Engineer, 1201 Main Street, Suite 600, Columbia, SC 29201, EMAIL: protest-ose@mno.sc.gov


(Signature of Awarding Authority)

12-23-2008

(Date Posted)

James R. Berry, P. E.

(Print or Type Name of Awarding Authority)

Director, Physical Plant Services

(Awarding Authority Title)

INSTRUCTIONS TO THE AGENCY:

1. Post a copy of this form on the Date and at the Location announced at the Bid Opening.
2. Mail a copy of this Form and the final Bid Tabulation to all responsive Bidders and OSE.

J C WILKIE CONSTRUCTION LLC
349 BUCK CORLEY COURT
LEXINGTON, SC 29073
(803) 808-3220

License number: 105138
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2010
First Issuance Date: 05/31/2001
Classification: GD5 WL5

Supervises
JASON C WILKIE - (COG)

[Click here for classifications key](#)

CURRENT CLASSIFICATION ABBREVIATIONS & FINANCIAL PROJECT LIMITATIONS**GENERAL CONTRACTORS**

Building	BD
Highway	HY (AP, CP, BR, GD, & HI)*
Asphalt Paving	AP
Concrete Paving	CP
Bridges	BR
Glass & Glazing	GG
Grading	GD
Highway Incidental	HI
Public Utility Electrical	1U or 2U**
Pipelines	PL
Water & Sewer Lines	WL
Water & Sewer Plants	WP
Boiler Installation	BL
Concrete	CT
Boring & Tunneling	BT
Marine	MR
Masonry	MS
Pre-engineered Metal Buildings	MB
Interior Renovation	IR
Railroad	RR
Specialty Roofing	SR
General Roofing	GR
Structural Framing	SF
Structural Shapes	SS
Swimming Pools	SP
Wood Frame Structures	WF

MECHANICAL CONTRACTORS

Air Conditioning	AC
Electrical	EL
Heating	HT
Lightning Protection	LP
Packaged Equipment	PK
Plumbing	PB
Process Piping	1P or 2P***
Refrigeration	RG

* The Highway classification "HY" is given to licensees who have passed all of the following exams: AP, CP, BR, GD & HI.

** 1U is the Public Utility Electrical classification for those licensed prior to 4/1/99; licenses issued after 4/1/99 will be given the classification as 2U and may not engage in stadium lighting.

*** Process Piping is designated as 1P prior to 4/1/99. Those licensed in Process Piping after 4/1/99 is designated as 2P and may not engage in boiler work.

FINANCIAL GROUP LIMITATION PER PROJECT**GENERAL CONTRACTORS**

Group 1	\$5,000 to \$ 30,000
Group 2	to \$100,000
Group 3	to \$350,000
Group 4	to \$750,000
Group 5	to Unlimited

MECHANICAL CONTRACTORS

Group 1	\$5,000 to \$ 17,500
Group 2	to \$ 30,000
Group 3	to \$ 50,000
Group 4	to \$125,000
Group 5	to Unlimited

White, John

From: Michael Anderson [andersonm@llr.sc.gov]
Sent: Tuesday, January 20, 2009 2:45 PM
To: White, John
Subject: RE: Bid Protest SCDMH Inpatient Building Case No 2009-011

John, Based on the documents provided a contractor with the GD- grading classification and the WL- waterline classification can do Items # 4.7.8.9 and 10 on the Fewell project and items # 4,7,8,9,10 and 11 on the Stone project. Items 1,2 and 3 on each project is unregulated.

We base the 40% rule on regulated work, If a general contractor is licensed to do 40% of the regulated work he can act as the prime contractor on the project. We rely on the architect or engineer to give us the figures to determine the amount of regulated work

From: White, John [mailto:jswhite@mmo.sc.gov]
Sent: Tuesday, January 20, 2009 2:20 PM
To: Michael Anderson
Subject: FW: Bid Protest SCDMH Inpatient Building Case No 2009-011

Michael: I previously sent you the two attached pdf documents on this matter. Also attached is the engineers estimate for this project with the cost of the stone base separated from the concrete pavement. Using the engineer's estimate, which items of work for Fewell and Stone fall within the combined GD5/WL5 license subclassifications? Also, could you confirm in writing the method you described to me for dealing with the unclassified work in analyzing percentages as well LLR's reliance on the architect/engineer's estimate in determining license requirements rather than the contractors?

Thanks for your help on this.

John White
State Engineer
Office of the State Engineer
1201 Main Street, Suite 600
Columbia, SC 29201
(803) 737-0768

From: White, John
Sent: Tuesday, January 06, 2009 11:58 AM
To: Michael Anderson
Subject: Bid Protest SCDMH Inpatient Building Case No 2009-011

Michael: I have a bid protest resulting from an agencies determination that the low bidder did not possess the proper license to bid the work. After reviewing the protest and the Act, it appears to me that the issue is whether unclassified work, demolition, can count toward the 40% level necessary to bid the work.

The scope of work is as follows:

Demolish existing pavement & appurtenances at loading dock area (Fewell Building); construct new pavement & appurtenances. Demolish existing pavement & appurtenances at loading dock area (Stone Building); construct new pavement & appurtenances.

The pavement is an asphalt pavement that will be replaced with a thicker concrete pavement.

The breakdown of the work using the protestant's numbers are as follows:

1) General	\$15,000
2) Grading/Misc. Items:	\$17,400
3) Demolition	\$12,100
4) Concrete Work	\$42,000
 Total	 \$87,150

The protestant possess GD5 and WL5 license classifications. Apparently there is no disagreement that items 1 and 2 are covered by the protestant's licenses, the disagreement is over items 3 and 4. The protestant maintains two positions as follows:

A) The entire project, including the concrete pavement work, is a rehabilitation of parking lots covered by the BD5 license; and

B) Even if the concrete pavement work must be excluded from the work covered by the GD5 license, the demotion work should be included in that work and count toward the 40% total necessary to bid the job.

Of course this position presents two questions for which I need LLR's positions.

1. Does the demolition and removal of asphalt pavement and replacement of that pavement with thicker concrete pavement constitute parking lot or road rehabilitation covered by the GD subclassifications under Sect. 40-11-410(2)(d)?

2. May a contractor include the value of unclassified work as work covered by his license in determining if 40% of the total work falls under his license classification per Sect. 40-11-340?

For your assistance in addressing this matter, I have included the correspondence from the protestant and the determination by the agency.

Thank you for you assistance in this matter.

John White
State Engineer
Office of the State Engineer
1201 Main Street, Suite 600
Columbia, SC 29201
(803) 737-0768

ESTIMATED REGULATED CONSTRUCTION COST					
Impatient Deferred Maintenance/Stone and Fewell Pavement Repair					
	Fewell	Quantity	Unit	Unit Price	Total
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5	3" Stone Base	286	SY	\$ 12.00	\$ 3,432.00
6	8" 4000 psi Concrete Slab	286	SY	\$ 68.00	\$ 19,448.00
7	18" Curb and Gutter with dowels	290	LF	\$ 17.00	\$ 4,930.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Removal of Lift and Flowable Fill	1	LS	\$ 2,500.00	\$ 2,500.00
11	Three Concrete Slabs	5.5	CY	\$ 295.00	\$ 1,622.50
REGULATED TOTAL COST FEWELL					\$ 35,732.50
	Stone	Quantity	Unit	Unit Price	Total
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
5	3" Stone Base	305	SY	\$ 12.00	\$ 3,660.00
6	8" 4000 psi Concrete Slab	305	SY	\$ 68.00	\$ 20,740.00
7	18" Curb and Gutter with dowels	221	LF	\$ 17.00	\$ 3,757.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Catch Basin	1	EA	\$ 1,000.00	\$ 1,000.00
11	Pedestrian Cross Walk Striping	1	LS	\$ 1,000.00	\$ 1,000.00
REGULATED TOTAL COST STONE					\$ 33,957.00
REGULATED TOTAL COST FEWELL AND STONE					\$ 69,689.50

REGULATED WORK WITHIN GD5/WL5 LICENSE SUBCLASSIFICATIONS					
Impatient Deferred Maintenance/Stone and Fewell Pavement Repair					
Fewell		Quantity	Unit	Unit Price	Total
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
7	18" Curb and Gutter with dowels	290	LF	\$ 17.00	\$ 4,930.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Removal of Lift and Flowable Fill	1	LS	\$ 2,500.00	\$ 2,500.00
TOTAL WITHIN LICENSE FEWELL					\$ 11,230.00
Stone		Quantity	Unit	Unit Price	Total
4	5" PVC Conduit	20	LF	\$ 15.00	\$ 300.00
7	18" Curb and Gutter with dowels	221	LF	\$ 17.00	\$ 3,757.00
8	Pipe Bollard	2	EA	\$ 1,000.00	\$ 2,000.00
9	Erosion & Sediment Control/Seeding	1	LS	\$ 1,500.00	\$ 1,500.00
10	Catch Basin	1	EA	\$ 1,000.00	\$ 1,000.00
11	Pedestrian Cross Walk Striping	1	LS	\$ 1,000.00	\$ 1,000.00
TOTAL WITHIN LICENSE STONE					\$ 9,557.00
TOTAL WITHIN LICENSE FEWELL AND STONE					\$ 20,787.00
PERCENT OF REGULATED TOTAL =					\$20,787.00/\$69,689.50= 30%