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GRANT GILLESPIE  
EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** Carolina Elevator Service, Inc.

**File No.:** 2023-008

**Posting Date:** January 5, 2023

**Contracting Entity:** South Carolina Department of Public Safety

**Project No.:** K05-9614-LC

**Description:** DPS/DMV Freight Elevator Upgrades

### DIGEST

Protest of Intent to Award on the grounds that the South Carolina Department of Public Safety (DPS) erred by providing all bidders on a previous bid on the same project the tabulation of bids for that previous bid, revealing protestant's bid price is denied.

### AUTHORITY

Per S.C. Code Ann. § 11-35-4210, the Chief Procurement Officer for Construction (CPOC) conducted an administrative review of protest filed by Carolina Elevator Service, Inc (CES) protesting DPS's intention to award a contract to Delaware Elevator, Inc. (Delaware) for modernization of a service elevator (the Project). CES's protest is attached as Exhibit A. This decision is based on materials in the procurement file and applicable law and precedents.

### BACKGROUND

The following are facts relevant to this protest:

- On October 26, 2022, DPS published an advertisement in South Carolina Business Opportunities (SCBO) for construction services for the Project. [Exhibit B]
- The solicitation documents included a bid form which required bidders to identify the subcontractor(s) that would perform the portion of the work requiring a South Carolina mechanical contractors license with and electrical subclassification. [Exhibit C]
- By the deadline for receipt of bids, DPS received three bids. [Exhibit D]

- CES submitted a low bid of \$224,555; however, CES listed Ultimate Construction Services (Ultimate) in the location on its bid for listing the contractor that would perform the electrical work of the project. [Exhibit C]
- Delaware submitted the second lowest bid in the amount of \$255,196 but also listed Ultimate as the electrical contractor that it intended to use for the electrical work on the Project. [Exhibit D]
- Oracle Elevator Holdco, Inc. (Oracle) submitted a high bid of \$257,370 and also listed Ultimate as the electrical contractor that it intended to use for the electrical work on the Project.
- Ultimate only has a South Carolina general contractors license with a building subclassification, a license that does not allow Ultimate to bid, offer to perform, or perform electrical work. S.C. Code Ann. §§40-11-270 & 410. [Exhibit E]
- Because all bidders listed a contractor that was not licensed to perform electrical work for the electrical work on the Project, DPS posted a Notice of Intent to Award on December 1, 2022, which notice stated “No Contract to be Awarded.” [Exhibit F] On the same day, DPS emailed each of the bidders a notice of rejection of bids with a copy of the notice of no award and the bid tabulation. [Exhibit G]
- DPS’ notice of no award included a statement of right to protest. The last day for an aggrieved bidder to file a notice of intent to protest this action was December 12, 2022.
- No bidder filed a notice of intent to protest DPS’ decision to not award a contract.
- On December 1, 2022, DPS published an advertisement in SCBO for construction services for the Project labeled as a re-bid. [Exhibit H]
- The re-bid solicitation documents included a bid form which did not require bidders to identify any subcontractor(s) that would perform any of the work. [Exhibit I]
- By the deadline for receipt of bids, DPS received three bids. [Exhibit J]
- CES submitted high bid of \$220,065. [Id.]
- Delaware submitted the low bid of \$214,677. [Id.]
- On December 14, 2022, DPS posted a notice of its intent to award a contract to Delaware. [Exhibit K]
- On December 14, 2022, CES protested DPS’s intent to award a contract.

## DISCUSSION

CES’s protest sets forth the following grounds of protest:

1. That DPS’s notice of no award on the first bid of the project should not have included a copy of the bid tabulation which notified its competitors of its bid price and that it was disadvantaged in the re-bid by the fact that it did.
2. Rather than throw all bidders out on the first bid of the project, DPS should have allowed bidders to correct the subcontractor listing to provide a correct license.

To the extent, CES’s protest is a protest of DPS decision to not award a contract, it is untimely because CES failed to file an intent to protest or protest until after the December 12, 2022, deadline. S.C. Code §11-35-4210(1)(b).

Even assuming CES’s protest was a timely protest of the first or alternatively, the second solicitation, it would fail.

Was it Error for DPS to Provide the Bid Tabulation for the First Bid to All Bidders?<sup>1</sup>

When dealing with the State, a bidder accepts the laws and procedures of the State even when they operate to the detriment of the bidder. Here, CES acknowledges in its protest that bids were opened in a public bid opening and therefore were “public knowledge.” CES argues, however, that since it was the only bidder present at the bid opening, DPS should not have revealed public information that CES alone was privy to. In essence, CES would impose on DPS a positive duty not to reveal public information. No such duty exists under the law. In fact, the bid tabulation for the first bid was public information under the Freedom of Information Act as soon as it was prepared.

Was it Error for DPS to Determine all Bidders on the First Bid to be non-Responsible?

Per S.C. Code Ann. §11-35-3020(b)(i), DPS, in consultation with the Project architect-engineer, required all bidders on the first bid to identify in their bids the subcontractor they would use to perform the work of the Project requiring a South Carolina mechanical contractors license with an electrical subclassification (EL license). All bidders listed Ultimate as the subcontractor they would use to perform the work requiring an EL license. Ultimate does not possess an EL license.

After opening bids, DPS was required to award a contract to the “lowest responsive and responsible bidder” unless it had a compelling reason to reject all bids. SC Code Ann §11-35-3020(2)(c); *see also* §11-35-1810. The key issue here is the Procurement Code’s requirement that DPS make an award to a “responsible bidder.” The Contractors Licensing Act requires a contractor to have the proper license at the time of bidding. SC Code Ann § 40-11-30. Possession of the proper contractor license, either by the bidder or one of the bidder’s subcontractors listed on the bidder’s bid form, 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, Ultimate lacked the proper license for performing the plumbing work on this project then neither Ultimate nor the bidders who listed Ultimate on their bids were responsible bidders.

Because Ultimate was not properly licensed to perform the work requiring an EL license, CES could not legally consider Ultimate’s offer to do. S.C. Code Ann § 11-40-200(B). It is the bidder’s responsibility to determine that its listed subcontractors are appropriately licensed before submitting a bid to the State.

CES argues that it should have been allowed to cure the deficiency in its bid. However, a bidder cannot cure its failure to determine the responsibility of its listed subcontractors before bidding by using the subcontractor substitution provisions of the Procurement Code. Protest of Burkwood.

To allow bidders to list an unlicensed or inappropriately licensed subcontractor in their bids and then make a substitution after bid opening allows bidders to circumvent the intent of the subcontractor licensing provision of the Procurement Code. The intent of this provision is to stop bid shopping. However, if a bidder can list an unlicensed or improperly licensed subcontractor and make a substitution, the bidder can always set the stage to shop bids. For this reason, the Procurement Review Panel has held


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<sup>1</sup> By providing all bidders with a copy of the bid tabulation along with notice of no award, DPS sought to comply with S.C. Code Ann. §11-35-3020(c)(i). This provision requires the State to provide all bidders with a copy of the bid tabulation at the same time the State posts a Notice of Intent to Award. CES argues that since there was no actual award, DPS should not have provided copies of the bid tabulation to all bidders.

that, in a case such as this, a substitution may only be made when the circumstances giving rise to the request occur after the posting of the notice of award.<sup>2</sup> Protest of Burkwood; Protest of Pizzagalli Construction Company, Case No. 1991-8; *see also* Melloul-Blamey Construction v. Clemson University, Case No. 2008-003A (CPOC), footnote 3. Here, the circumstances giving rise to the request for substitution occurred prior to bidding and substitution was not an available remedy

## DECISION

Based on the foregoing, the CPOC denies CES's protest.

  
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John St. C. White, PE  
Chief Procurement Officer for Construction

Columbia, South Carolina

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<sup>2</sup> S.C. Code Ann. §11-35-3021(1)(a)(iv)) applies when, after award, the listed subcontractor's license expires or is revoked and the subcontractor does not renew or obtain a new license prior to the start of work. Protest of Burkwood. At the time of the Burkwood decision, this provision was located at S.C. Code Ann. §11-35-3020(2)(b)(iii)(e).

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised July 2022)*

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.

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

FILING FEE: Pursuant to Proviso 111.1 of the 2022 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) and *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**  
**1205 Pendleton Street, Suite 367, Columbia, SC 29201**

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\_\_\_\_\_  
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: \_\_\_\_\_

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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.**

**From:** [Wayne Brindle](#)  
**To:** [Protest-OSE](#)  
**Subject:** [External] DPS/DMV Freight Elevator Upgrades STATE PROJECT NO. K05-9614-LC  
**Date:** Wednesday, December 14, 2022 4:26:12 PM

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Office of State Engineer,

Carolina Elevator Service wishes to protest the award of State Project # K05-9614-LC. The reason for this protest is that a procedure in the re-bidding process caused a severe disadvantage to Carolina Elevator Service. Under AIA Document A701 Article 6.4, it says that a final bid tabulation shall be delivered with a notice of intent to award. During the first bid process where the bids were not accepted, a notice of re-bid was sent to the respective bidders and included with that was a bid tabulation. The delivery of this premature bid tabulation gave the respective bidders a second chance at submitting a lower bid than Carolina Elevator Service and it showed them how low they needed to go.

I understand that this is public knowledge and had the other respective bidders been at the first bid opening then I would not have an issue. They were not there, therefore sending out the bid tabulation with the re-bid notice did in my opinion, skew the entire re-bid process of sealed bids, and gave my competitors an unfair advantage over Carolina Elevator Service. They were now able to know how much to lower their bids for the resubmission.

I would like to see the original bid tabulation be used for the award of this project. The only problem with the first bid was a technicality of license number. There were not any discrepancies with the base bid dollar amounts. All three bidders used the exact same GC and listed the exact same GC license on the sub contractor form. This should have been merely a clarification and should not have resulted in a re-bid of the entire project. When this was discovered, the correct license was given to both Ms. Kuna and Mr. Fink. Why was this not acceptable? Please advise us as to your decision regarding this matter.

Sincerely,

Wayne Brindle  
President  
Carolina Elevator Service Inc.  
(C) 704-813-4285  
(O) 803-865-1400  
(F) 803-865-4400  
[waynebrindle@carolinaelevatorservice.com](mailto:waynebrindle@carolinaelevatorservice.com)



Life without God is like an unsharpened pencil - it has no point.  
Billy Graham

**Holiday Schedule:**

**Our business offices will close on Monday December 26 for Christmas**



**The business office will also close on January 2 for New Year's Day**

Our service technicians are always available 24/7.

# South Carolina Business Opportunities

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Published by Division of Procurement Services - Delbert H. Singleton, Jr., Division Director

**Ad Category:** Construction

**Ad Start Date:** October 26, 2022

**Agency/Owner:** Department of Public Safety

**Project Name:** DPS/DMV Freight Elevator Upgrades

**Project Number:** K05-9614-LC

**Construction Cost Range:** \$250,000 to \$350,000

**Project Location:** DPS/DMV Headquarters, 10311 Wilson Blvd., Blythewood, SC 29016

**Description of Project/Services:**

Modernization of Service Elevator Car #4, including, but not limited to, related minor electrical and controls work.as specified in the Contract Documents.

**Bid/Submittal Due Date & Time:** November 29, 2022 - 2:00pm

**Number of Bid/Submittal Copies:** 1

**Project Delivery Method:** Design-Bid-Build

**Agency Project Coordinator:** Tricia Kuna

**Email:** patriciakuna@scdps.gov

**Telephone:** 803-896-8056

**Documents May Be Obtained From:** Tricia Kuna

**Project Details:** <https://scbo.sc.gov/files/scbo/K05-9614-LC%20SE-310%20lc102622.pdf>

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South Carolina Business Opportunities • SCBO Team • 1201 Main Street, Suite 600 • Columbia, SC 29201  
803-737-0600 • [scbo@mmo.sc.gov](mailto:scbo@mmo.sc.gov) • <https://scbo.sc.gov> • <https://procurement.sc.gov>



**SE-330****LUMP SUM BID FORM***Bidders shall submit bids on only Bid Form SE-330.***BID SUBMITTED BY:** Carolina Elevator Service Inc*(Bidder's Name)***BID SUBMITTED TO:** South Carolina Department of Public Safety*(Agency's Name)***FOR: PROJECT NAME:** DPS/DMV Freight Elevator Upgrades**PROJECT NUMBER:** K05-9614-LC**OFFER**

- § 1. In response to the Invitation for Construction Services 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 on the terms 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 SC Code § 11-35-3030(1), Bidder has submitted Bid Security in the amount and form required by the Bidding Documents.
- § 3. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into this Bid:  
*(Bidder, check all that apply. Note, there may be more boxes than actual addenda. Do not check boxes that do not apply)*
- ADDENDA:**      ☐ #1      ☐ #2      ☐ #3      ☐ #4      ☐ #5
- § 4. Bidder accepts all terms and conditions of the Invitation for Bids, including, without limitation, those dealing with the disposition of Bid Security. Bidder agrees that this Bid, including all Bid Alternates, if any, 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.
- § 5. Bidder herewith offers 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** *(as indicated in the Bidding Documents and generally described as follows):* Modernization of Service Elevator Car #4, including, but not limited to, related minor electrical and controls work as specified in the Contract Documents.

\$ 224,555.00, which sum is hereafter called the Base Bid.

*(Bidder to insert Base Bid Amount on line above)*

**SE-330****LUMP SUM BID FORM****§ 7. LISTING OF PROPOSED SUBCONTRACTORS PURSUANT TO SECTION 3020(b)(i), CHAPTER 35, TITLE 11 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED***(See Instructions on the following page BF-2A)*

Bidder shall use the below-listed Subcontractors in the performance of the Subcontractor Classification work listed:

(A) SUBCONTRACTOR LICENSE CLASSIFICATION or SUBCLASSIFICATION NAME <i>(Completed by Agency)</i>	(B) LICENSE CLASSIFICATION or SUBCLASSIFICATION ABBREVIATION <i>(Completed by Agency)</i>	(C) SUBCONTRACTOR and/or PRIME CONTRACTOR <i>(Required - must be completed by Bidder)</i>	(D) SUBCONTRACTOR'S and/or PRIME CONTRACTOR'S SC LICENSE NUMBER <i>(Requested, but not Required)</i>
<b>BASE BID</b>			
Electrical	EL	Ultimate Construction Services	122428
<b>ALTERNATE #1</b>			
<b>ALTERNATE #2</b>			
<b>ALTERNATE #3</b>			

If a Bid Alternate is accepted, Subcontractors listed for the Bid Alternate shall be used for the work of both the Alternate and the Base Bid work.

## SE-330

## LUMP SUM BID FORM

## INSTRUCTIONS FOR SUBCONTRACTOR LISTING

1. Section 7 of the Bid Form sets forth an Agency-developed list of subcontractor license classifications or subclassifications for which Bidder is required to identify the entity (subcontractor(s) and/or himself) Bidder will use to perform this work.
  - a. **Columns A & B:** The Agency fills out these columns to identify the subcontractor license classification/subclassification and related license abbreviation for which the Bidder must list either a subcontractor or himself as the entity that will perform this work. In Column A, the subcontractor license classification/subclassification is identified by name and in Column B, the related contractor license abbreviation (per Title 40 of the SC Code of Laws) is listed. Abbreviations of licenses can be found at: <https://lcr.sc.gov/clb/PDFFiles/CLBClassificationAbbreviations.pdf>. If the Agency has not identified a subcontractor license classification/subclassification, the Bidder does not list a subcontractor.
  - b. **Columns C and D:** In these columns, the Bidder identifies the subcontractors it will use for the work of each license listed by the Agency in Columns A & B. Bidder must identify only the subcontractor(s) who will perform the work and no others. Bidders must make sure that their identification of each subcontractor is clear and unambiguous. A listing that could be any number of different entities may be cause for rejection of the bid as non-responsive. For example, a listing of M&M without additional information may be problematic if there are multiple different licensed contractors in South Carolina whose names start with M&M.
2. **Subcontractor Defined:** For purposes of subcontractor listing, a subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site pursuant to a contract with the prime contractor. Bidder should not identify sub-subcontractors in the spaces provided on the bid form but only those entities with which Bidder will contract directly. Likewise, do not identify material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the Bidder or proposed subcontractor(s).
3. **Subcontractor Qualifications:** Bidder must only list subcontractors who possess a South Carolina contractor's license that includes the license classification and/or subclassification identified by the Agency in Columns A & B. The subcontractor license must also be within the appropriate license group for the work. If Bidder lists a subcontractor who is not qualified to perform the work, the Bidder will be rejected as non-responsive.
4. **Use of Own forces:** If, under the terms of the Bidding Documents and SC Contractor Licensing laws, Bidder is qualified to perform the work of a listed subcontractor classification or subclassification and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert itself in the space provided.
5. **Use of Multiple Subcontractors:**
  - a. If Bidder intends to use multiple subcontractors to perform the work of a single license classification/subclassification, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "and". If Bidder intends to use both his own employees to perform a part of the work of a single license classification/subclassification and to use one or more subcontractors to perform the remaining work, Bidder must insert itself and each subcontractor, preferably separating them with the word "and". Bidder must use each entity listed for the work of a single license classification/subclassification in the performance of that work.
  - b. **Optional Listing Prohibited:** Bidder may not list multiple subcontractors for a license classification/subclassification in a form that provides the Bidder the option, after bid opening or award, to choose one or more but not all the listed subcontractors to perform the work for which they are listed. A listing, which on its face requires subsequent explanation to determine whether it is an optional listing, is non-responsive. If Bidder intends to use multiple entities to perform the work for a single listing, Bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "and" between the names of each entity listed. Agency will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Agency may reasonably interpret as an optional listing.
6. If Bidder is awarded the contract, Bidder must, except with the approval of the Agency for good cause shown, use the listed entities to perform the work for which they are listed.
7. If Bidder is awarded the contract, Bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
8. Bidder's failure to identify an entity (subcontractor or himself) to perform the work of a subcontractor listed in Columns A & B will render the Bid non-responsive.

# SE-330

## LUMP SUM BID FORM

### § 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (*FOR INFORMATION ONLY*):

Pursuant to instructions in the Invitation for Construction Services, if any, Bidder will provide to Agency upon the Agency's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code § 11-35-3020(b)(i).

### § 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

#### a) CONTRACT TIME

Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Agency. Bidder agrees to substantially complete the Work within 270 Calendar Days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

#### b) LIQUIDATED DAMAGES

Bidder further agrees that from the compensation to be paid, the Agency shall retain as Liquidated Damages the amount of \$ 500.00 for each Calendar Day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This amount is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

### § 10. AGREEMENTS

- a) Bidder agrees that this bid is subject to the requirements of the laws of the State of South Carolina.
- b) Bidder agrees that at any time prior to the issuance of the Notice to Proceed for this Project, this Project may be canceled for the convenience of, and without cost to, the State.
- c) Bidder agrees that 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.

### § 11. 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 AIA Document A310, Bid Bond, referenced in the Bidding Documents.

**ELECTRONIC BID BOND NUMBER:** \_\_\_\_\_

**SIGNATURE AND TITLE:** \_\_\_\_\_

**SE-330  
LUMP SUM BID FORM****CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATION****SC Contractor's License Number(s):** 122428**Classification(s) & Limits:** SC General Contractor**Subclassification(s) & Limits:** \_\_\_\_\_

By signing this Bid, the person signing reaffirms all representation and certification made by both the person signing and the Bidder, including without limitation, those appearing in Article 2 of the SCOSE Version of the AIA Document A701, Instructions to Bidders, is expressly incorporated by reference.

**BIDDER'S LEGAL NAME:** Carolina Elevator Service Inc**ADDRESS:** 777 Old Clemson Road Columbia, SC 29229**TELEPHONE:** 803-865-1400**EMAIL:** Support@carolinaelevatorservice.com**SIGNATURE:** Wayne Brindle **DATE:** 11-22-2022**PRINT NAME:** Wayne Brindle**TITLE:** President



# AIA Document A310™ – 2010

## Bid Bond

### CONTRACTOR:

(Name, legal status and address)

Carolina Elevator Service Inc.  
777 Old Clemson Road #4203  
Columbia, SC 29229

### SURETY:

(Name, legal status and principal place of business)

Great Midwest Insurance Company  
800 Gessmer, Suite 600  
Houston, TX 77024

### OWNER:

(Name, legal status and address)

South Carolina Department of Public Safety  
10311 Wilson Blvd  
Blythewood, SC 29106

**BOND AMOUNT:** 5% of the total amount bid

### PROJECT:

(Name, location or address, and Project number, if any)

DPS/DMV Freight Elevator Upgrades - Headquarters  
10311 Wilson Blvd  
Blythewood, SC 29016

Project Number, if any:

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid and gives such bond or bonds as may be specified in the bidding or Contract Documents with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 23 day of November 2022

Denna Burton  
(Witness)

Kelly Best  
(Witness)

Carolina Elevator Service Inc

(Principal)

Alayne Smith President (Seal)

(Title)

Great Midwest Insurance Company

(Surety)

Todd A. Stein (Seal)

(Title) Todd A. Stein Attorney-in-fact

Init.

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POWER OF ATTORNEY

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that GREAT MIDWEST INSURANCE COMPANY, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Todd A. Stein, Mark Levinson, Jeff McQuate, Mary Brenner-Miller

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of GREAT MIDWEST INSURANCE COMPANY, on the 1<sup>st</sup> day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, GREAT MIDWEST INSURANCE COMPANY, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.



GREAT MIDWEST INSURANCE COMPANY

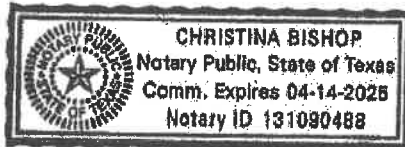
BY

*Mark W. Haushill*

Mark W. Haushill  
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of GREAT MIDWEST INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY

*Christina Bishop*

Christina Bishop  
Notary Public

CERTIFICATE

I, the undersigned, Secretary of GREAT MIDWEST INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 23 Day of November 22, 20



BY

*Leslie K. Shaunty*

Leslie K. Shaunty  
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties."

## BID TABULATION

Project: DPS/DMV FREIGHT ELEVATOR UPGRADES Project #: K05-9614-LC

Owner: South Carolina Department of Public Safety Bid Date: 11/29/2022 Bid Time: 2:00 pm

Contractor	Bond	Base Bid	Electrical Subcontractor
Carolina Elevator Service, Inc.	X	\$224,555.00	Ultimate Construction Services
Delaware Elevator Inc.	X	\$255,196.00	Ultimate Construction Services
Oracle Elevator Holdco Inc.	X	\$257,370.00	UCS Southeast

I hereby certify this is an accurate and true representation.



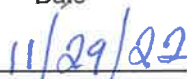
Agency Signature



Date



Witness Signature



Date

[Print this page](#)**Board: Commercial Contractors**

**BRITT AASEBY CONSTRUCTION INC**  
**DBA: ULTIMATE CONSTRUCTION SERVICES**  
2 OFFICE PARK COURT SUITE 103  
COLUMBIA, SC 29223  
(763)559-7300

**License number:** 122428  
**License type:** GENERAL CONTRACTOR  
**Status:** ACTIVE  
**Expiration:** 10/31/2024  
**First Issuance Date:** 10/01/2019  
**Classification:**  
Building-BD4

**Qualified By:** Financial Statement  
**President / Owner:** RICHARD BIALICK

[Click here for Classification definitions and licensee's contract dollar limit](#)

**Supervised By**  
**SANKEN BRANDON (CQG)**

[File a Complaint against this licensee](#)

**Board Public Action History:**[View Orders](#)[View Other License for this Person](#)

No Orders Found

**SE-370****NOTICE OF INTENT TO AWARD - DESIGN-BID-BUILD CONTRACT****AGENCY:** South Carolina Department of Public Safety**PROJECT NAME:** DPS/DMV Headquarters Freight Elevator Upgrades**PROJECT NUMBER:** K05-9614-LC**POSTING DATE:** 12/1/2022**TO ALL BIDDERS:**

Unless stayed by protest or canceled, the Agency intends to enter into a contract as noted below. The successful bid will be accepted, and the contract formed by execution of the contract documents. All bid bonds remain in effect for the bid acceptance period as provided in Section 4 of the Bid Form, except as otherwise provided in the Instructions to Bidders.

**NAME OF BIDDER:** No Contract to be Awarded**DATE BIDS WERE OPENED:** 11/29/2022**BID INFORMATION:****BASE BID AMOUNT:** \$ \_\_\_\_\_**ALTERNATES: #1 ACCEPTED** ☐ \$ \_\_\_\_\_#2 ACCEPTED ☐ \$ \_\_\_\_\_#3 ACCEPTED ☐ \$ \_\_\_\_\_**TOTAL BID AMOUNT:** \$ \_\_\_\_\_**TOTAL CONTRACT AWARD:** \$ \_\_\_\_\_*(If the Total Contract Award is different from the Total Bid Amount, explain any negotiations that resulted in the change.)* \_\_\_\_\_**REMARKS:** *(If "No Contract to Be Awarded" was entered above, indicate the reason.)* All bids were non-responsive because they failed to list a Sub-Contractor as required by law.

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency for execution. Contractor should not perform any work before receipt of the Agency's written Notice to Proceed.

**RIGHT TO PROTEST (SC Code § 11-35-4210)**

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of this contract may be entitled to protest. To protest an award, you must (i) submit notice of your intent to protest within seven (7) business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen (15) days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided.

**PROTEST - CPO ADDRESS - OSE:** Any protest must be addressed to the Chief Procurement Officer for Construction, Office of State Engineer, and submitted in writing (a) by email to: [protest-ose@mmo.sc.gov](mailto:protest-ose@mmo.sc.gov), or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the email address from which you sent your protest.

  
 (Agency Procurement Officer Signature)

Tricia Kuna

(Print or Type Name)

**INSTRUCTIONS TO THE AGENCY:**

1. Post a copy of the SE-370 at the location specified by the Instructions to Bidders and announced at the Bid Opening.
2. Send the SE-370 and the final Bid Tabulation electronically to all Bidders and OSE (if required) the same day it is posted.

**From:** [Kuna, Tricia A](#)  
**To:** ["Wayne Brindle"](#); ["Pat Flanagan"](#); ["David.allen@oracleelevator.com"](#)  
**Cc:** [Garrett Fink](#); [Clark, Lyth](#); [Hutto, Benjamin P](#)  
**Subject:** DPS/DMV Headquarters Freight Elevator Upgrades K05-9614-LC Bid Rejection  
**Date:** Thursday, December 1, 2022 11:22:56 AM  
**Attachments:** [SE-370-Notice of Intent to Award - DBB Contract.pdf](#)  
[image001.gif](#)  
[Elevator Bid Tab.pdf](#)  
[image003.jpg](#)

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To All Bidders:

See the attached SE form rejecting all bids and the bid tab for this project. The Electrical Subcontractor listed on all bid forms does not have an Electrical License in this state. We plan to re-bid this project shortly.

Thank you all,

Tricia Kuna  
Capital Improvements Manager – Support Services  
South Carolina Department of Public Safety  
10311 Wilson Boulevard (PO Box 1993)  
Blythewood, SC 29016  
803.896.8056 (Office)  
803.603.1765 (Cell)  
[patriciakuna@scdps.gov](mailto:patriciakuna@scdps.gov)  
[www.scdps.gov](http://www.scdps.gov)



# South Carolina Business Opportunities

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Published by Division of Procurement Services - Delbert H. Singleton, Jr., Division Director

**Ad Category:** Construction

**Ad Start Date:** December 1, 2022

**Agency/Owner:** Department of Public Safety

**Project Name:** DPS/DMV Freight Elevator Upgrades [RE-BID]

**Project Number:** K05-9614-LC

**Construction Cost Range:** \$200,000 to \$300,000

**Project Location:** DPS/DMV Headquarters, 10311 Wilson Blvd., Blythewood, SC 29016

**Description of Project/Services:**

Modernization of Service Elevator Car #4, including, but not limited to, related minor electrical and controls work.as specified in the Contract Documents,

**Bid/Submittal Due Date & Time:** December 13, 2022 - 2:00pm

**Number of Bid/Submittal Copies:** 1

**Project Delivery Method:** Design-Bid-Build

**Agency Project Coordinator:** Tricia Kuna

**Email:** patriciakuna@scdps.gov

**Telephone:** 803-896-8056

**Documents May Be Obtained From:** Tricia Kuna

**Project Details:** <https://scbo.sc.gov/files/scbo/K05-9614-LC%20SE-310%20RE-BID%20lc120122.pdf>

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South Carolina Business Opportunities • SCBO Team • 1201 Main Street, Suite 600 • Columbia, SC 29201  
803-737-0600 • [scbo@mmo.sc.gov](mailto:scbo@mmo.sc.gov) • <https://scbo.sc.gov> • <https://procurement.sc.gov>



**SE-330****LUMP SUM BID FORM***Bidders shall submit bids on only Bid Form SE-330.***BID SUBMITTED BY:** Carolina Elevator Service Inc*(Bidder's Name)***BID SUBMITTED TO:** South Carolina Department of Public Safety*(Agency's Name)***FOR: PROJECT NAME:** DPS/DMV Freight Elevator Upgrades**PROJECT NUMBER:** K05-9614-LC**OFFER**

- § 1. In response to the Invitation for Construction Services 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 on the terms 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 SC Code § 11-35-3030(1), Bidder has submitted Bid Security in the amount and form required by the Bidding Documents.
- § 3. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into this Bid:  
*(Bidder, check all that apply. Note, there may be more boxes than actual addenda. Do not check boxes that do not apply)*
- ADDENDA:**      ☐ #1      ☐ #2      ☐ #3      ☐ #4      ☐ #5
- § 4. Bidder accepts all terms and conditions of the Invitation for Bids, including, without limitation, those dealing with the disposition of Bid Security. Bidder agrees that this Bid, including all Bid Alternates, if any, 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.
- § 5. Bidder herewith offers 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** *(as indicated in the Bidding Documents and generally described as follows):* Modernization of Service Elevator Car #4, including, but not limited to, related minor electrical and controls work as specified in the Contract Documents.

\$ 220,065.00, which sum is hereafter called the Base Bid.

*(Bidder to insert Base Bid Amount on line above)*

**SE-330****LUMP SUM BID FORM**

**§ 7. LISTING OF PROPOSED SUBCONTRACTORS PURSUANT TO SECTION 3020(b)(i), CHAPTER 35, TITLE 11 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED**  
*(See Instructions on the following page BF-2A)*

Bidder shall use the below-listed Subcontractors in the performance of the Subcontractor Classification work listed:

(A) SUBCONTRACTOR LICENSE CLASSIFICATION or SUBCLASSIFICATION NAME <i>(Completed by Agency)</i>	(B) LICENSE CLASSIFICATION or SUBCLASSIFICATION ABBREVIATION <i>(Completed by Agency)</i>	(C) SUBCONTRACTOR and/or PRIME CONTRACTOR <i>(Required - must be completed by Bidder)</i>	(D) SUBCONTRACTOR'S and/or PRIME CONTRACTOR'S SC LICENSE NUMBER <i>(Requested, but not Required)</i>
<b>BASE BID</b>			
		Ultimate Construction Services	122428
<b>ALTERNATE #1</b>			
<b>ALTERNATE #2</b>			
<b>ALTERNATE #3</b>			

If a Bid Alternate is accepted, Subcontractors listed for the Bid Alternate shall be used for the work of both the Alternate and the Base Bid work.

# SE-330

## LUMP SUM BID FORM

### INSTRUCTIONS FOR SUBCONTRACTOR LISTING

1. Section 7 of the Bid Form sets forth an Agency-developed list of subcontractor license classifications or subclassifications for which Bidder is required to identify the entity (subcontractor(s) and/or himself) Bidder will use to perform this work.
  - a. **Columns A & B:** The Agency fills out these columns to identify the subcontractor license classification/subclassification and related license abbreviation for which the Bidder must list either a subcontractor or himself as the entity that will perform this work. In Column A, the subcontractor license classification/subclassification is identified by name and in Column B, the related contractor license abbreviation (per Title 40 of the SC Code of Laws) is listed. Abbreviations of licenses can be found at: <https://lir.sc.gov/clb/PDFFiles/CLBClassificationAbbreviations.pdf>. If the Agency has not identified a subcontractor license classification/subclassification, the Bidder does not list a subcontractor.
  - b. **Columns C and D:** In these columns, the Bidder identifies the subcontractors it will use for the work of each license listed by the Agency in Columns A & B. Bidder must identify only the subcontractor(s) who will perform the work and no others. Bidders must make sure that their identification of each subcontractor is clear and unambiguous. A listing that could be any number of different entities may be cause for rejection of the bid as non-responsive. For example, a listing of M&M without additional information may be problematic if there are multiple different licensed contractors in South Carolina whose names start with M&M.
2. **Subcontractor Defined:** For purposes of subcontractor listing, a subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site pursuant to a contract with the prime contractor. Bidder should not identify sub-subcontractors in the spaces provided on the bid form but only those entities with which Bidder will contract directly. Likewise, do not identify material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the Bidder or proposed subcontractor(s).
3. **Subcontractor Qualifications:** Bidder must only list subcontractors who possess a South Carolina contractor's license that includes the license classification and/or subclassification identified by the Agency in Columns A & B. The subcontractor license must also be within the appropriate license group for the work. If Bidder lists a subcontractor who is not qualified to perform the work, the Bidder will be rejected as non-responsive.
4. **Use of Own forces:** If, under the terms of the Bidding Documents and SC Contractor Licensing laws, Bidder is qualified to perform the work of a listed subcontractor classification or subclassification and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert itself in the space provided.
5. **Use of Multiple Subcontractors:**
  - a. If Bidder intends to use multiple subcontractors to perform the work of a single license classification/subclassification, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "and". If Bidder intends to use both his own employees to perform a part of the work of a single license classification/subclassification and to use one or more subcontractors to perform the remaining work, Bidder must insert itself and each subcontractor, preferably separating them with the word "and". Bidder must use each entity listed for the work of a single license classification/subclassification in the performance of that work.
  - b. **Optional Listing Prohibited:** Bidder may not list multiple subcontractors for a license classification/subclassification in a form that provides the Bidder the option, after bid opening or award, to choose one or more but not all the listed subcontractors to perform the work for which they are listed. A listing, which on its face requires subsequent explanation to determine whether it is an optional listing, is non-responsive. If Bidder intends to use multiple entities to perform the work for a single listing, Bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "and" between the names of each entity listed. Agency will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Agency may reasonably interpret as an optional listing.
6. If Bidder is awarded the contract, Bidder must, except with the approval of the Agency for good cause shown, use the listed entities to perform the work for which they are listed.
7. If Bidder is awarded the contract, Bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
8. Bidder's failure to identify an entity (subcontractor or himself) to perform the work of a subcontractor listed in Columns A & B will render the Bid non-responsive.

## SE-330

### LUMP SUM BID FORM

#### § 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (*FOR INFORMATION ONLY*):

Pursuant to instructions in the Invitation for Construction Services, if any, Bidder will provide to Agency upon the Agency's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code § 11-35-3020(b)(i).

#### § 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

##### a) CONTRACT TIME

Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Agency. Bidder agrees to substantially complete the Work within 270 Calendar Days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

##### b) LIQUIDATED DAMAGES

Bidder further agrees that from the compensation to be paid, the Agency shall retain as Liquidated Damages the amount of \$ 500.00 for each Calendar Day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This amount is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

#### § 10. AGREEMENTS

- a) Bidder agrees that this bid is subject to the requirements of the laws of the State of South Carolina.
- b) Bidder agrees that at any time prior to the issuance of the Notice to Proceed for this Project, this Project may be canceled for the convenience of, and without cost to, the State.
- c) Bidder agrees that 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.

#### § 11. 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 AIA Document A310, Bid Bond, referenced in the Bidding Documents.

**ELECTRONIC BID BOND NUMBER:** \_\_\_\_\_

**SIGNATURE AND TITLE:** \_\_\_\_\_

**SE-330**  
**LUMP SUM BID FORM****CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATION****SC Contractor's License Number(s):** 122428**Classification(s) & Limits:** SC General Contractor**Subclassification(s) & Limits:**

By signing this Bid, the person signing reaffirms all representation and certification made by both the person signing and the Bidder, including without limitation, those appearing in Article 2 of the SCOSE Version of the AIA Document A701, Instructions to Bidders, is expressly incorporated by reference.

**BIDDER'S LEGAL NAME:** Carolina Elevator Service Inc**ADDRESS:** 777 Old Clemson Road Columbia, SC 29229**TELEPHONE:** 803-865-1400**EMAIL:** Support@carolinaelevatorservice.com**SIGNATURE:** Wayne Brindle**DATE:** 12-12-2022**PRINT NAME:** Wayne Brindle**TITLE:** President

# Document A310™ – 2010

## Bid Bond

### CONTRACTOR:

(Name, legal status and address)

Carolina Elevator Service Inc.  
777 Old Clemson Road #4203  
Columbia, SC 29229

### SURETY:

(Name, legal status and principal place of business)

Great Midwest Insurance Company  
800 Gessmer, Suite 600  
Houston, TX 77024

### OWNER:

(Name, legal status and address)

South Carolina Department of Public Safety  
10311 Wilson Blvd  
Blythewood, SC 29106

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** 5% of the total amount bid

### PROJECT:

(Name, location or address, and Project number, if any)

DPS/DMV Freight Elevator Upgrades - Headquarters  
10311 Wilson Blvd  
Blythewood, SC 29016

Project Number, if any:

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

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When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 23 day of November 2022

Denna Burton

(Witness)

Kelly Best

(Witness)

Carolina Elevator Service Inc

(Principal)

Ulyse Bunk President

(Title)

Great Midwest Insurance Company

(Surety)

Joel A. Stein

(Title)

Joel A. Stein Attorney-in-fact

Init.

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**POWER OF ATTORNEY**  
**Great Midwest Insurance Company**

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Todd A. Stein, Mark Levinson, Jeff McQuate, Mary Brenner-Miller

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1<sup>st</sup> day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.



**GREAT MIDWEST INSURANCE COMPANY**

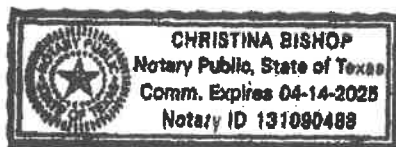
BY \_\_\_\_\_

*Mark W. Haushill*

Mark W. Haushill  
President

**ACKNOWLEDGEMENT**

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY \_\_\_\_\_

*Christina Bishop*

Christina Bishop  
Notary Public

**CERTIFICATE**

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 23 Day of November, 2022.



BY \_\_\_\_\_

*Leslie K. Shaunty*

Leslie K. Shaunty  
Secretary

**"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or consents for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.**

## BID TABULATION

Project: DPS/DMV FREIGHT ELEVATOR UPGRADES [RE-BID] Project #: K05-9614-LC

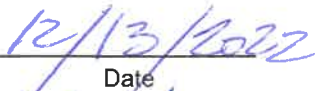
Owner: South Carolina Department of Public Safety Bid Date: 12/13/2022 Bid Time: 2:00 pm

Contractor	Bond	Base Bid
Carolina Elevator Service	X	\$220,065.00
Delaware Elevator Inc.	X	\$214,677.00
Oracle Elevator Holdco Inc.	X	\$218,370.00


I hereby certify this is an accurate and true representation.



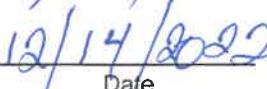
Agency Signature



Date



Witness Signature



Date

**SE-370****NOTICE OF INTENT TO AWARD - DESIGN-BID-BUILD CONTRACT****AGENCY:** South Carolina Department of Public Safety**PROJECT NAME:** DPS/DMV Headquarters Freight Elevator Upgrades [RE-BID]**PROJECT NUMBER:** K05-9614-LC**POSTING DATE:** 12/14/2022**TO ALL BIDDERS:**

Unless stayed by protest or canceled, the Agency intends to enter into a contract as noted below. The successful bid will be accepted, and the contract formed by execution of the contract documents. All bid bonds remain in effect for the bid acceptance period as provided in Section 4 of the Bid Form, except as otherwise provided in the Instructions to Bidders.

**NAME OF BIDDER:** Delaware Elevator Inc.**DATE BIDS WERE OPENED:** 12/14/2022**BID INFORMATION:****BASE BID AMOUNT:** \$ 214,677.00**ALTERNATES: #1 ACCEPTED** ☐ \$ N/A#2 **ACCEPTED** ☐ \$ N/A#3 **ACCEPTED** ☐ \$ N/A**TOTAL BID AMOUNT:** \$ 214,677.00**TOTAL CONTRACT AWARD:** \$ 214,677.00*(If the Total Contract Award is different from the Total Bid Amount, explain any negotiations that resulted in the change.)* \_\_\_\_\_**REMARKS:** *(If "No Contract to Be Awarded" was entered above, indicate the reason.)* \_\_\_\_\_

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency for execution. Contractor should not perform any work before receipt of the Agency's written Notice to Proceed.

**RIGHT TO PROTEST (SC Code § 11-35-4210)**

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of this contract may be entitled to protest. To protest an award, you must (i) submit notice of your intent to protest within seven (7) business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen (15) days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided.

**PROTEST - CPO ADDRESS - OSE:** Any protest must be addressed to the Chief Procurement Officer for Construction, Office of State Engineer, and submitted in writing (a) by email to: [protest-ose@mmo.sc.gov](mailto:protest-ose@mmo.sc.gov), or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the email address from which you sent your protest.



(Agency Procurement Officer Signature)

Tricia Kuna

(Print or Type Name)

**INSTRUCTIONS TO THE AGENCY:**

1. Post a copy of the SE-370 at the location specified by the Instructions to Bidders and announced at the Bid Opening.
2. Send the SE-370 and the final Bid Tabulation electronically to all Bidders and OSE (if required) the same day it is posted.