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GOVERNOR

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STATE TREASURER

RICHARD ECKSTROM, CPA  
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES

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DIVISION DIRECTOR  
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MATERIALS MANAGEMENT OFFICER  
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HARVEY S. PEELER, JR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

G. MURRELL SMITH, JR.  
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE  
EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** Duke Commercial Construction LLC.

**File No.:** 2022-004

**Posting Date:** March 21, 2022

**Contracting Entity:** The Citadel

**Project No.:** IH-553

**Description:** Vandiver Wrestling Locker Room Renovation

### DIGEST

Protest that a determination that low bidder was non-responsive for failure to acknowledge an addendum was improper upheld where the bidder's bid included documentation acknowledging receipt of the addendum.

### AUTHORITY

Per S.C. Code Ann. § 11-35-4210, the Chief Procurement Officer for Construction (CPOC) conducted an administrative review of a protest filed by Duke Commercial Construction LLC (Duke). Duke's protest is attached as Exhibit A.<sup>1</sup> This decision is based on materials in the procurement file and applicable law and precedents.

### BACKGROUND

On March 10, 2022, Duke emailed the CPOC a protest of the Citadel's intent to award a contract to J. Musselman Construction (Musselman), to renovate Vandiver Wrestling Locker Room (the Project). The following are facts relevant to this protest:

- On or about February 10, 2022, the Citadel issued a solicitation for bids to perform the work of the project. [Exhibit B]
- The deadline for receipt of bids was March 4, 2022. [Id.]

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<sup>1</sup> The CPOC has attached Exhibit A to this decision sans exhibits. All relevant portions of the exhibits to the protest are otherwise attached to this decision as Exhibits D through E and G.

- By the deadline for receipt of bids, the Citadel received eight bids, including bids from Musselman and Duke. [Exhibit C] Duke submitted the low bid.
- In the place for acknowledging receipt of addenda on the bid form, Duke marked the box for acknowledging addendum 2 but did not mark the box for acknowledging addendum 1. [Exhibit D]
- Duke included documents with its bid that the Citadel did not ask for. Included within these documents was a clear acknowledgement by Duke that it had received addendum 1. [Exhibit E]
- On March 8, 2022, the Citadel posted a Notice of Intent to Award a contract to Musselman [Exhibit F] The bid tabulation attached to this Notice stated that Duke was nonresponsive for failure to acknowledge addendum 1. The Citadel confirmed this in an email dated March 8, 2022. [Exhibit G]
- On March 8, 2022, Duke filed a notice of intent to protest which it perfected on March 10, 2022.

Resolution of this matter is governed by S.C. Code Ann. §11-35-1520(13) which states:

Minor Informalities and Irregularities in Bids. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids having no effect or merely a trivial or negligible effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not be prejudicial to bidders. The procurement officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of the State. Such communication or determination shall be in writing. Examples of minor informalities or irregularities include, but are not limited to:

\*\*\*

(d) failure of a bidder to acknowledge receipt of an amendment to a solicitation, but **only if**:

(i) the bid received **indicates in some way that the bidder received the amendment**, such as where the amendment added another item to the solicitation and the bidder submitted a bid, on it, if the bidder states under oath that it received the amendment before bidding and that the bidder will stand by its bid price; or

(ii) the amendment has no effect on price or quantity or merely a trivial or negligible effect on quality or delivery, and is not prejudicial to bidders, such as an amendment correcting a typographical mistake in the name of the governmental body; ...  
[emphasis supplied]

A review of the materials Duke submitted with its bid clearly shows that Duke received addendum 1.<sup>2</sup> In such case, the Citadel should have given Duke the opportunity provide an affidavit acknowledging receipt of addendum 1 and that it will stand by its bid price.

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<sup>2</sup> In its response to the protest, the Citadel alleges that the extra materials Duke submitted with its bid render Duke's bid nonresponsive on other grounds. The CPOC makes no finding on these new claims. The Citadel's expressed grounds for not considering Duke's bid was failure to acknowledge addendum 1 and did not include any other grounds. [Exhibits C & G] Therefore, these new grounds are not properly before the CPOC. The Citadel will have to decide on remand whether these alleged additional grounds render Duke's non-responsive, taking into consideration S.C. Code Ann. §11-35-1520(13)

Protest Decision, page 3

File No. 2022-004

March 21, 2022

## **DECISION**

Based on the foregoing, the CPOC grants Duke's protest. The award to Musselman is vacated and the matter is remanded to the Citadel with instructions to proceed in accordance with the Consolidated Procurement Code.

A handwritten signature in blue ink, reading "John St. C. White", is positioned above a horizontal line.

John St. C. White, PE

Chief Procurement Officer for Construction

Columbia, South Carolina

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised May 2020)*

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 2020 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  
1105 Pendleton Street, Suite 209, 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.**

# Exhibit A

**From:** [Nicholas Ranko](#)  
**To:** [McVey, Jim](#); [Protest-OSE](#)  
**Subject:** [External] Protest to Bid Award by Bidder Duke Commercial Construction, LLC re: Project IH-553, Vandiver Wrestling Locker Room Renovation  
**Date:** Thursday, March 10, 2022 10:08:36 PM

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Good Evening Chief Procurement Officer of Construction [Office of State Engineer],

My name is Nicholas Ranko, President of Duke Commercial Construction, LLC. We submitted our notice of intent to protest on 03.09.2022 at 9:02 AM via email. Please see our **attached** formal letter to protest the notice of intent to award SE-370 with a posting date of 03.08.2022.

Please let me know if you need anything else at this time. I am available through phone, text, or email anytime. 843.301.1755

I look forward to hearing from you! Thank you

**Nicholas Ranko, MBA**

*President*

Duke Commercial Construction, LLC

(c): 843.301.1755





March 10<sup>th</sup>, 2022

Attn: Chief Procurement Officer of Construction  
Office of State Engineer  
1201 Main St., Suite 600  
Columbia, SC 29201

**Subject:** Protest to Bid Award by Bidder Duke Commercial Construction, LLC re: Project IH-553, Vandiver Wrestling Locker Room Renovation

To the Chief Procurement Officer of Construction - Office of State Engineer

Pursuant to S.C. § 11-35-4210 *et seq.*, Duke Commercial Construction, LLC. ("Duke") respectfully submits this formal letter of protest to The Citadel in reference to project number IH-553, Vandiver Wrestling Locker Room Renovation (the "Project").

On March 4, 2022, at 1:00 P.M. (the public opening), Duke submitted its bid for the Project, a true and correct copy of which is attached hereto as **Exhibit A** (the "Bid").

On March 8, 2022, Duke was informed via email from Kathleen Dille (Director of Construction Management at The Citadel) that the Bid was deemed to be non-responsive solely because Duke inadvertently missed checking a box on the bid form acknowledging Addendum #1. Ms. Dille confirmed over the telephone that the Bid was the lowest received through the process and confirmed in writing that the inadvertent failure to check this box was the only reason the Bid was being rejected. A true and correct copy of the email received from Ms. Dille is attached hereto as **Exhibit B**. Duke subsequently received the SE-370 Notice of Intent to Award Design-Bid-Build Contract to J Musselman Construction, at a total contract award of 290,395.00 (which was \$[26,716.00] more than the proposal in the Bid).

However, in accordance with the Office of the State Engineer's Manual Sec. 6.10.4 (Failure to Acknowledge Addenda), the Bid should *not* have been rejected.

The Office of the State Engineer's Manual paragraph 6.10.4 states as follows:

The Agency must reject a bid where the Bidder failed to acknowledge all addenda *unless* (Emphasis added).

A. the bid received indicates in some way the Bidder received the addendum(a), such as where the addendum(a) added another item to the solicitation and the Bidder submitted a bid on it....

The only Addendum at issue here is Addendum #001.<sup>1</sup> Here, it is indisputable that the Bid did indicate that the Bidder (Duke) received the addendum, the nature, and effect of which was incorporated into the

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<sup>1</sup> It is undisputed that Duke checked the box on the bid form indicating that Duke acknowledged the only other Addendum (#002), further emphasizing that Duke's failure to check the box for Addendum #001 was nothing more than an inadvertent scrivener's error.



Bid. Specifically, on page 10 of the Bid (*see* Ex. A) Duke cited to the Addenda (including Addendum #001):

The proposal is based on Coast Architects stamped design dated 2.09.2022  
Addendum #001: Via AE Digital Printing dated 02.21.2022  
Addendum #002: Via AE Digital Printing dated 02.25.2022

Furthermore, in accordance with Addendum #001, Duke also indicated as part of the Bid that: "New tile will be installed per plan, a \$1,000.00 allowance was included in the base bid for any tile repair work outside of design intent. New tiles and grout may not match perfectly." *See* Bid at Ex. A, p. 10.

Therefore, it is indisputable that the Bid was in full compliance with all applicable bid requirements, and pursuant to the Office of the State Engineer's Manual Sec. 6.10.4, should not have been rejected.<sup>2</sup>

Duke respectfully requests that the rejection of the Bid be overturned and that the Bid be reconsidered for this Project.

Respectfully,  
Nicholas Lewis Ranko, MBA



President | Construction Manager  
Duke Commercial Construction, LLC

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<sup>2</sup> Further, putting aside the fact that the Bid *did* acknowledge Addendum #001 and *did* incorporate the value of Addendum #1 into the Bid, even if it had not, the total amount of the addendum at issue (\$1000) is less than 0.5% of the total Bid. As this amount is negligible (especially in consideration of the difference between the Bid amount and the amount of the awarded bid), this would constitute a separate and independent ground to overturn the rejection of the Bid pursuant to Office of the State Engineer's Manual Sec. 6.10.4 (B).

# Exhibit B

## 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:** February 10, 2022

**Agency/Owner:** The Citadel

**Project Name:** Vandiver Wrestling Locker Room Reno

**Project Number:** IH-553

**Construction Cost Range:** \$300,000 - \$400,000

**Project Location:** The Citadel - Vandiver Hall - 171 Moultrie St., Charleston, SC

**Description of Project/Services:**

Renovate approximately 1,500 SF of the Vandiver Hall Wrestling Locker Room. The work includes, but is not limited to, demolition, metal studs, tile, painting, gypsum board, resilient flooring, lockers, casework, electrical, and plumbing.

**Bid/Submittal Due Date & Time:** March 4, 2022 - 1:00pm

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

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

**Agency Project Coordinator:** Frank Smith

**Email:** fsmithii@citadel.edu

**Telephone:** 1-843-953-5286

**Documents May Be Obtained From:** A&E Digital Printing, 517 King St., Charleston, SC 29403 / 843-853-5066 / [www.aeplanroom.com/jobs/public](http://www.aeplanroom.com/jobs/public)

**Project Details:** [www.citadel.edu/ofeprojects](http://www.citadel.edu/ofeprojects)

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South Carolina Business Opportunities • Scott Hawkins 11111, Editor • 1201 Main Street, Suite 600 • Columbia, SC 29201  
803-737-0686 • [scbo@mimo.sc.gov](mailto:scbo@mimo.sc.gov) • <https://procurement.sc.gov>



# Exhibit C



## VANDIVER WRESTLING LOCKER ROOM RENOVATION BID TABULATION

03.04.2022

Total - BASE  
Bid + 3  
ALTERNATES  
↓

Witnessed by:  
Frank Smith  
Arnie McClure  
Luke Morris

*FAM*  
**coast**  
architects

BIDDER	ADD NO. 1	ADD NO. 2	BID BOND	BASE BID	BID ALT. NO. 1	BID ALT. NO. 2	BID ALT. NO. 3	
Chastain Construction	X	X	X	297,392	\$223,495.00	\$37,910.00	\$20,502.00	\$15,465.00
Duke Commercial Construction		X	X	263,679	\$193,328.00	\$47,063.00	\$10,063.00	\$13,225.00
Hill Construction	X	X	X	300,447	\$245,768.00	\$33,955.00	\$8,724.00	\$12,000.00
Huss, Inc.	X	X	X	345,535	\$266,619.00	\$38,500.00	\$25,016.00	\$15,400.00
Infinger Construction Group	X	X	X	298,050	\$216,713.00	\$51,000.00	\$17,337.00	\$13,000.00
IPW Construction	X	X	X	376,071	\$298,931.00	\$39,460.00	\$23,200.00	\$14,480.00
J. Musselman Construction	X	X	X	290,395	\$224,275.00	\$42,264.00	\$15,978.00	\$7,878.00
MPS Construction	X	X	X	304,208	\$234,802.00	\$40,430.00	\$15,928.00	\$13,048.00

\* DUKE COMMERCIAL CONSTRUCTION BID IS NON-RESPONSIVE -  
DID NOT ACKNOWLEDGE ADDENDUM No. 1.

*[Signature]* 3.4.22  
*[Signature]* 3.8.22

SE-330

**LUMP SUM BID FORM***Bidders shall submit bids on only Bid Form SE-330.*

**BID SUBMITTED BY:** Duke Commercial Construction, LLC.  
(Bidder's Name)

**BID SUBMITTED TO:** The Citadel  
(Agency's Name)

**FOR: PROJECT NAME:** Vandiver Wrestling Locker Room Renovation

**PROJECT NUMBER:** IH-553

**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): Renovate approximately 1,500 sq. ft. of first floor locker area as described in bid documents The work includes, but is not limited to, demolition, metal studs, tile, painting, gypsum board, resilient flooring, lockers, casework, electrical, and plumbing.

\$ 193,328.00, which sum is hereafter called the Base Bid.

(Bidder to insert Base Bid Amount on line above)

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

*Bidders shall submit bids on only Bid Form SE-330.*

**§ 6.2 BID ALTERNATES** as indicated in the Bidding Documents and generally described as follows:

**ALTERNATE # 1** (Brief Description): Provide lockers

☒ **ADD TO** or ☐ **DEDUCT FROM BASE BID:** \$ 47,063.00

*(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)*

**ALTERNATE # 2** (Brief Description): Shoe dryer racks and exhaust

☒ **ADD TO** or ☐ **DEDUCT FROM BASE BID:** \$ 10,063.00

*(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)*

**ALTERNATE # 3** (Brief Description): Nutrition Station

☒ **ADD TO** or ☐ **DEDUCT FROM BASE BID:** \$ 13,225.00

*(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)*

**§ 6.3 UNIT PRICES:**

**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** prior to including in the Contract.

<u>No.</u>	<u>ITEM</u>	<u>UNIT OF MEASURE</u>	<u>ADD</u>	<u>DEDUCT</u>
<u>1.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>
<u>2.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>
<u>3.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>
<u>4.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>
<u>5.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>
<u>6.</u>	<u></u>	<u></u>	\$ <u></u>	\$ <u></u>

**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>			
NO LISTING REQUIRED			
<b>ALTERNATE #1</b>			
NO LISTING REQUIRED			
<b>ALTERNATE #2</b>			
NO LISTING REQUIRED			
<b>ALTERNATE #3</b>			
NO LISTING REQUIRED			

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****§ 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 109 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 \$ 350.00 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:** N/A - Hard copy of sealed bid provided

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

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

2021 Edition

**CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATION**

SC Contractor's License Number(s): G123859

Classification(s) & Limits: LB-3

Subclassification(s) & Limits: N/A

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: Nicholas Lewis Ranko, MBA

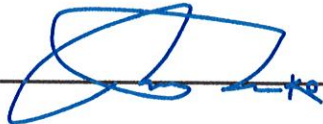
ADDRESS: 17 Alberta Ave

Charleston, SC 29403

TELEPHONE: 843.301.1755

EMAIL: nranko@dukeconstructionllc.com

SIGNATURE: \_\_\_\_\_



DATE: 03/04/2022

PRINT NAME: Nicholas L. Ranko, MBA

TITLE: President



March 4<sup>th</sup>, 2022

The Citadel  
Facilities & Engineering  
Construction Management  
171 Moultrie St.  
Charleston, SC 29409

**Subject:** Cover Letter & References

Thank you for the opportunity to provide a sealed bid for the Vandiver Wrestling locker room renovation project IH – 553.

My name is Nicholas Ranko, President of Duke Commercial Construction, and I wanted to express our immense amount of interest in this project. I am very selective when it comes to what projects we bid on and this renovation is one I am highly interested in.

I graduated from The Citadel with my MBA in '20 and was Treasurer of The Student Veteran Association. Prior to attending The Citadel's graduate program, I served four years in the Marine Corps from 2006-2010, serving in Iraq and Afghanistan.

Finally, I was a wrestler from my toddler years until my senior year in high school. I would treat this renovation with the highest level of significance and respect not only because I am Veteran alumni, but because the school and wrestlers deserve this.

**References:**

Brian Gottshalk, Director of Public Works, The Town of Kiawah, The Citadel '14 - 843.901.4183  
Natasha Chatman, COO, Fetter Health Care – 843.957.1712  
Amelia Kearney, owner of Amelia Interiors - 843.764.7058

Respectfully,  
Nicholas Lewis Ranko, MBA

A handwritten signature in blue ink, appearing to read 'N. Ranko', is written over the printed name.

President | Construction Manager  
Duke Commercial Construction, LLC

17 Alberta Ave. Charleston, SC 29403  
843.301.1755



March 4th, 2022

Mr. Frank Smith  
Facilities & Engineering  
Construction Management  
171 Moultrie Street  
Charleston, SC 29409

Dear Mr. Smith, Facilities & Engineering,

Thank you for the opportunity to provide a bid for the Vandiver Wrestling Locker Room Renovation project located at **171 Moultrie Street, Charleston, SC 29409**. Duke Commercial Construction is honored to be considered for this project and we look forward to providing an excellent product for your student-athletes to enjoy. The following scope of work is included in our proposal.

The proposal is based on Coast Architects stamped design dated 2.09.2022

Addendum #001: Via AE Digital Printing dated 02.21.2022

Addendum #002: Via AE Digital Printing dated 02.25.2022

**Scope of Work:** *1,473sqft renovation for the wrestling locker room*

- Provide supervision and project management throughout the entire project life cycle
- Provide temporary protection for dust and safety of occupants and existing facility as shown on G001. Provide daily clean, final clean, dumpster, and temporary bathrooms
- Selective demolition per sheets D100, D101, and D102 for interior walls, doors, frames, ceiling, saw cutting, plumbing, piping, mechanical registers, electrical circuits, receptacles, lighting, and minor fire alarm work
- Construct new walls (Types A, B & C) as shown on floor plan sheet A101. Wall blocking for equipment and millwork is included. Infill wall in the shower area with new framing, drywall, and tile. Only at existing openings
- Provide material and labor to install ceiling system per sheet A102 as well as directional exit devices. Ceiling tiles **mold- and mildew-resistant surface** (provided being a wrestling locker room) and grid selection per finish schedule.
- Per sheet A501, provide material and labor to install floor leveler, new LVT with 6" vinyl base. New tile will be installed per plan, a \$1,000.00 allowance was included in the base bid for any tile repair work outside of design intent. New tiles and grout may not match perfectly
- Provide material and labor to install new interior paint for HM frames, doors, and walls as shown on sheet A501 under interior finish material legend
- Install casework per sheet A502 for bathroom vanity. Per design, the base bid includes a new locker base as shown on sheet A101 detail H5. This scope does include QTY (2) HDPE doors with hinges for soiled room 103. All other casework is included in bid alternates on G001.
- Provide and install new corner guards (CG-1 & 2), as shown on sheet A501
- Per sheet A501, provide material and labor to install toilet accessories, partitions, and corner guards as designed.

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- Furnish QTY (1) semi-recessed cabinet with 10lb Fire extinguisher as shown
- Plumbing scope includes all materials and labor necessary to meet the design intent as shown on plumbing drawings. Plumbing fixtures at the nutrition station, are included in bid alt 3. Per base bid, rough-in locations will be provided.
- Mechanical scope includes all materials and labor necessary to meet the design intent as shown on mechanical drawings. This scope excludes bid alternates. Per bid alt 2, associated exhaust and electrical work for shoe dryer rack locations.
- Electrical scope includes all materials and labor necessary for a complete electrical system. This scope excludes unless selected bid alt 2 work.
- **Work not included in a bid alternates 1, 2, & 3 is included in the base bid**

**Bid Alternates:**

- **Bid alt #1:** Provide material and labor to install QTY 30 lockers by Columbia Lockers. Solid Phenolic, class B fire rates, all 1/2" material, elliptical design stadium lockers with seat cubbies, top cubbies, built-in combo locks, hooks, rods, and logos. 12-14 week lead time. This alt includes bench
  - **\$47,063.00**
- **Bid alt #2:** Provide material and labor to install shoe drying racks and mechanical exhaust with cabinet and doors. Qty 2
  - **\$10,063.00**
- **Bid alt #3:** Provide material and labor to install new casework, plumbing fixtures, and equipment at Nutrition station
  - **\$13,225.00**

**Clarifications:**

- Lead-times on materials may impact the schedule
- Owner provided equipment will be installed by GC
- Allowance for tile rework was included in the base bid at \$1,000.00

**Exclusion:**

- Fridge, microwave, lockers, 60" TV.
- Low voltage of any kind to include data CAT 5 or 6 cabling
- Any corridor work outside of this scope
- Any access controls
- Any asphalt, gutter, landscape, parking lot work are excluded

The above scope of work can be completed for **\$ 193,328.00**

Duke Commercial Construction, LLC. Contractor's License: G123859

If the above scope of work and the contract amount are acceptable, please sign below. Thank you again for the opportunity to provide this proposal and I look forward to working with you and your team

17 Alberta Ave, Charleston SC, 29403  
843.301.1755



Respectfully Submitted,  
Nicholas Lewis Ranko, MBA

A handwritten signature in blue ink, appearing to read "Nicholas Ranko", with a stylized flourish at the end.

President  
Duke Commercial Construction, LLC.

Approved and accepted by: \_\_\_\_\_

Date: \_\_\_\_\_

DUKE

COMMERCIAL CONSTRUCTION  
LLC.

17 Alberta Ave, Charleston SC, 29403  
843.301.1755

SE-370

**NOTICE OF INTENT TO AWARD DESIGN-BID-BUILD CONTRACT****AGENCY:** The Citadel**PROJECT NAME:** Vandiver Wrestling Locker Room Reno**PROJECT NUMBER:** IH-553**POSTING DATE:** 3/8/2022**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:** J Musselman Construction**DATE BIDS WERE OPENED:** 4 March 2022**BID INFORMATION:****BASE BID AMOUNT:**\$ 224,275.00

<b>ALTERNATES:</b>	<b>#1</b>	<b>ACCEPTED</b> <input checked="" type="checkbox"/>	\$ <u>42,264.00</u>
	<b>#2</b>	<b>ACCEPTED</b> <input checked="" type="checkbox"/>	\$ <u>15,978.00</u>
	<b>#3</b>	<b>ACCEPTED</b> <input checked="" type="checkbox"/>	\$ <u>7,878.00</u>

**TOTAL CONTRACT AWARD:**\$ 290,395.00**REMARKS** *(explain any negotiations that resulted in a change in any Bid amounts):* N/A

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 prior to (1) delivering to the Agency both certificates of insurance and Performance and Payment Bonds meeting the requirements of the solicitation; and (2) receipt of the Agency's written Notice to Proceed. The State assumes no liability for any expenses incurred by the Contractor prior to issuance of a Notice to Proceed, other than the Contractor's non-reimbursable costs incurred in providing such bonds.

**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 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 e-mail address from which you sent your protest.


*(Agency Procurement Officer Signature)*CAPT Jeff Lamberson; VP for Facilities & Engineering*(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.



Nicholas Ranko &lt;nranko@dukeconstructionllc.com&gt;

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**Vandiver Wrestling Locker Room Reno**

4 messages

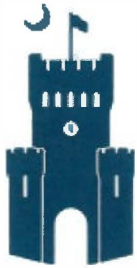
**Frank M Smith II** <fsmithii@citadel.edu>

Tue, Mar 8, 2022 at 10:34 AM

To: Nicholas Ranko <nranko@dukeconstructionllc.com>, "Vance Alexander (vance@jmusselmanconstruction.com)" <vance@jmusselmanconstruction.com>, Nick Burt <Nick@jmusselmanconstruction.com>, Jon Musselman <jon@jmusselmanconstruction.com>, Cyrus Sinor <cyrussinor@ipwco.com>, Kevin Townsend <ktownsend@chastainconstruction.com>, Chastain Construction <bids@chastainconstruction.com>, Gene Garrett <gene@hillcon.com>, "suzi@hillcon.com" <suzi@hillcon.com>, Alan Sheeley <adsheeley@hussinc.com>, "richardhuss@hussinc.com" <richardhuss@hussinc.com>, Joey Infinger <jinfinger@infingerconstruction.com>, Bryan Rembert <BRembert@ipwco.com>, "L. Kai Yeh" <kyeh@mpsgc.com>  
Cc: "Carla M. McIntyre" <mcintyrec@citadel.edu>, Kathleen Dille <kdille@citadel.edu>, Arnie McClure <arnie@coastarchitects.net>, "luke@coastarchitects.net" <luke@coastarchitects.net>

All,

Good morning, and thank you for bidding the Vandiver Wrestling Locker Room Renovation project. The Bid Tab and Notice of Intent to Award are attached for your reference.

**Frank Smith**

*Construction Manager*  
Facilities & Engineering, **The Citadel**

**Mail:** [171 Moultrie St., Charleston, SC 29409](#)**Delivery:** 520 Wilson Ave., Charleston, SC 29409**p:** (843) 953-5286**w:** [citadel.edu](#) **e:** [fsmithii@citadel.edu](#)

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**2 attachments****Bid Tab 2022-3-4.pdf**  
334K**SE-370-Notice of Intent to Award.pdf**  
231K

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**Kathleen Dille** <kdille@citadel.edu>

Tue, Mar 8, 2022 at 4:18 PM

To: Nicholas Ranko &lt;nranko@dukeconstructionllc.com&gt;

Cc: Frank M Smith II &lt;fsmithii@citadel.edu&gt;, Glenn W Easterby &lt;geasterb@citadel.edu&gt;

Good afternoon Mr. Ranko,

Thank you for your time and effort bidding The Citadel's *Vandiver Wrestling Locker Room Reno* project. Unfortunately, your bid was deemed non-responsive for not acknowledging Addendum #1 on your Bid Form.

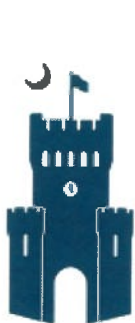
SC Code of Laws 11-35-1520(13) and the Office of the State Engineer's Manual 6.10.4.B <https://procurement.sc.gov/manual> addresses failure to acknowledge addenda, as Addendum #1 had an effect on the price of the bids.

We hope to work with you in the future and we appreciate your enthusiasm for this project.

Respectfully Submitted,

*Kathleen M. Dille, Architect*

*Director of Construction Management, Committee Chairman*



**Kathleen M. Dille, Architect**  
*Director of Construction Management*  
Facilities & Engineering, **The Citadel**

USPS: 171 Moultrie Street

UPS/FedEx/Physical Address: 520 Wilson Avenue

Charleston, SC 29409

p: (843) 953-7063

w: citadel.edu e: kdille@citadel.edu

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## 2 attachments



**Bid Tab 2022-3-4.pdf**

334K



**SE-370-Notice of Intent to Award.pdf**

231K

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**Nicholas Ranko** <nranko@dukeconstructionllc.com>

To: Kathleen Dille <kdille@citadel.edu>

Cc: Frank M Smith II <fsmithii@citadel.edu>, Glenn W Easterby <geasterb@citadel.edu>

Wed, Mar 9, 2022 at 5:10 PM

Good Afternoon Kathleen,

Thank you so much for following up. As per our conversation on 03.07.2021 at 1600, Duke Construction will be contesting our bid as it was deemed non-responsive.

We have notified the state via email and will submit our actual protest within the next few days. Thank you!

**Nicholas Ranko, MBA**

*President*

Duke Commercial Construction, LLC

(c): 843.301.1755



3/10/22, 10:52 AM

Duke Commercial Construction Mail - Vandiver Wrestling Locker Room Reno

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**Nicholas Ranko** <nranko@dukeconstructionllc.com>  
To: rankoronald@gmail.com

Wed, Mar 9, 2022 at 6:26 PM

**Nicholas Ranko, MBA**  
*President*  
Duke Commercial Construction, LLC  
(c): 843.301.1755



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