

STATE OF SOUTH CAROLINA	)	BEFORE THE CHIEF PROCUREMENT
COUNTY OF RICHLAND	)	OFFICER FOR CONSTRUCTION
	)	
	)	CASE NO. 2009-009
IN THE MATTER OF: CONTROVERSY	)	
	)	ORDER APPROVING SETTLEMENT
BOYKIN CONTRACTING, INC.	)	
vs.	)	
UNIVERSITY OF SOUTH CAROLINA	)	POSTING DATE: APRIL 29, 2009
SWEARINGEN FRONT ENTRANCE	)	
LANDSCAPING	)	
INDEFINITE DELIVERY CONTRACT	)	
<u>PROJECT NO. H27-D115-TR</u>	)	

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from Boykin Contracting, Inc. (Boykin), under the provisions of §11-35-4230 of the South Carolina Consolidated Procurement Code (“the Code”), for an administrative review on the Swearingen Front Entrance Landscaping Project (“the Project”) for the University of South Carolina (USC). In its request, Boykin disputes USC’s deduction of \$34,533.33 from the contract price pursuant to a Construction Change Directive arguing that the deduction should be \$11,763.00. Pursuant to §11-35-4210(3) of the South Carolina Code, the CPOC evaluated the issues for potential resolution by mutual agreement, determined that mediation was appropriate, and appointed a mediator. The attempt to mediate was successful. Boykin agreed to a deduct change order to its contract with USC in the amount of \$17,000.00 and Boykin agreed to accept this deduct change order as a complete resolution of its claim. [The parties’ agreement is attached as Exhibit “A”] This consent agreement settles all matters in dispute raised in Boykin’s request for administrative review.

**CPOC FINDINGS**

Based on a review of facts and issues surrounding this controversy, the CPOC finds that the parties engaged in good faith, free, and full discussions leading to a mutually agreeable settlement. It is the finding of the CPOC that the agreement between the two parties is both a complete settlement of the dispute and an acceptable resolution of the dispute. The CPOC further finds that the agreement is in the best interests of the State.

**DECISION**

Under the authority granted by §11-35-4230(3) of the Code, the CPOC hereby approves the settlement agreement as set forth in Exhibit A. Based on the parties' mutual good faith commitment to perform as set forth in the settlement agreement, the CPOC dismisses the request for administrative review filed by Boykin.

  
\_\_\_\_\_  
John St. C. White  
Chief Procurement Officer for Construction

  
\_\_\_\_\_  
Date

Columbia, South Carolina

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UNIVERSITY OF SOUTH CAROLINA

Campus Planning & Construction

743 Greene Street  
Columbia, SC 29208

RECEIVED PHONE 803-777-3126  
FAX 803-777-8739

March 11, 2009

MAR 31 2009

Mr. John St. C. White, P.E.  
Chief Procurement Officer for Construction  
Materials Management Office  
1201 Main St., Suite 600  
Columbia, SC 29201

OFFICE OF STATE ENGINEER

Re: Settlement with Boykin Contracting  
Swearingen Front Entrance Landscaping  
Indefinite Delivery Contract No. H27-D093-JM

Dear Mr. White:

Following negotiations with Boykin Contracting regarding the value of work deleted from the original work order, Construction Services Delivery Order Modification No. 2 (copy attached) reducing the amount of the work order by \$17,000.00 was issued and accepted by both parties.

 3/27/09  
(signature) (date)  
Ben Coonrod, Project Manager  
Campus Planning and Construction, University of South Carolina

 3/25/09  
(signature) (date)  
Mike Ammons  
Boykin Contracting, Inc.

Sworn to and Subscribed before me this ## day of March, 2009.

  
(signature)  
Notary Public  
My Commission Expires: 7/27/2015

(Notary Seal)

- cc. Boykin Contracting
- George W. Lampl, III
- Jim McVey, P.E.
- Ben Coonrod, RLA, LEED AP

