

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement (the "Agreement") is effective _____ (the "Effective Date") and is entered into by and between Kiewit Infrastructure South Co. ("KISC") and _____. (_____). KISC and _____ be individually referred to as a "Party" and jointly referred to as the "Parties".

RECITALS

WHEREAS, the _____, ("Owner") has advertised for the Construction of the Design-Build (DB) Hurricane Florence Recovery MILCON Package 4, Hurricane Florence Recovery Bridges at Marine Corps Base (MCB) Camp LeJeune, North Carolina, Solicitation No. N40085-19-R-9254 (the "Project") whereby bids are to be submitted on or about _____;

WHEREAS, in order for the Parties to discuss and evaluate the Project, the Parties will disclose and share certain information;

WHEREAS, each Party (the "Receiving Party") may receive from the other Party (the "Disclosing Party") proprietary and/or confidential information and documentation, which is hereinafter defined as "Confidential Information" concerning the Project and the Disclosing Party's involvement in the Project;

WHEREAS, the Parties recognize that said Confidential Information is a valuable asset of the Disclosing Party, and that misuse or unauthorized disclosure will substantially impair the value of the Confidential Information and will cause irreparable damage to the disclosing Party; and

WHEREAS, the Parties agree to treat such Confidential Information pursuant to the terms of this Agreement and to use such Confidential Information only in connection with an evaluation and negotiation of the work to be performed on the Project.

NOW, THEREFORE, in consideration of the foregoing premises and the promises contained in this Agreement, and for such other good and valuable consideration, the Parties hereto agree as follows:

1. As used herein, the term "Confidential Information" shall mean any and all information in any form whatsoever, whether oral, documentary, magnetic, electronic, graphic, digitized or otherwise, including without limitation information relating to research & development, products, engineering drawings, specifications, data, software, know-how, inventions, trade secrets, models, sample components, calculations, formulae, manufacturing methods, analytical and quality control methods, sales data, anticipated sales volumes, costs, prices and/or other financial information, information relating to potential or actual customers, markets, marketing opportunities, business structure, assets, liabilities, operations, budgets, Project RFP and bidding strategies, Project management, technical and execution approaches, and strategies which is communicated by the Disclosing Party to the Receiving Party, and which the Disclosing Party indicates is

confidential by being marked as such at the time of disclosure or otherwise designated in writing as confidential by the Disclosing Party within thirty (30) days of disclosure or which by its nature should reasonably have been recognized by the Receiving Party as information which the Disclosing Party wished to be kept confidential.

2. The Receiving Party agrees to take reasonable precautions to protect against the knowing or intentional release of the Confidential Information in any manner, by the Receiving Party, its employees, officers, or agents, without the prior written approval of the Disclosing Party.
3. The Disclosing Party hereby grants to the Receiving Party a non-exclusive right to use such Confidential Information for the sole purpose of collaboration in relation to the Project pursuant to the Disclosing Party's request(s).
4. The Receiving Party agrees that all Confidential Information received from the Disclosing Party shall remain the exclusive property of the Disclosing Party and that nothing contained herein shall be considered as granting the Receiving Party any proprietary rights except as expressly contemplated or otherwise permitted herein.
5. The Receiving Party agrees not to disclose or make available the Confidential Information to any person (other than permitted personnel of the Receiving Party that need to know such Confidential Information in order to review it and to such other persons employed in connection herewith) without the prior written consent of the Disclosing Party and in any event provided such disclosure is made only after reasonable precautions against disclosure have been taken by the Receiving Party.
6. Except as necessary to carry out the intentions contemplated in Sections 3 and 5 hereof, but subject to the restrictions imposed therein, the Receiving Party will not copy the Confidential Information or any part thereof or transfer the Confidential Information to any third parties without the prior written consent of the Disclosing Party.
7. Notwithstanding any other provision in this Agreement, neither Party to this Agreement shall be liable to the other Party for consequential, special or indirect damages or losses including loss or anticipated loss of profit.
8. Nothing in this Agreement shall affect the Receiving Party's right to use and/or disclose to others any or all Confidential Information or any part or parts thereof which:
 - i. through no act, omission, fault or negligence on the part of the Receiving Party, becomes part of the public domain; or
 - ii. is lawfully received by the Receiving Party from an independent third party who has a legal right to make such disclosure; or
 - iii. is approved for public release by written authorization of the Disclosing Party; or

- iv. is disclosed pursuant to any requirement of law or of a governmental agency or pursuant to a court order.

- 9. This Agreement is the complete and exclusive statement of the non-disclosure agreement between the Parties. All previous non-disclosure agreements between the parties are hereby null and void. Any Confidential Information previously disclosed between the Parties shall be subject to the protections set forth in this Agreement. Amendments to this Agreement shall not be effective unless they are in writing and signed by the duly authorized representatives of each of the Parties. No Party may assign this Agreement without the prior written approval of the other Party. Any purported assignment without such prior approval shall be null and void. This Agreement shall be governed by the laws of North Carolina.

- 10. The obligations set forth in this Agreement shall continue in full force and effect whether or not any other agreement to perform work or services is entered into between the Parties. The Receiving Party shall, upon the request of the Disclosing Party and at its option, return all Confidential Information and any copies thereof to the Disclosing Party or furnish a certificate of destruction thereof. The obligations contained in this Agreement shall survive the termination of the discussions regarding the Project between the Parties and the return or destruction of the Confidential Information.

- 11. Any notices which under this Agreement must or may be given shall be given in writing and shall be sent to the other Party by registered or certified mail, postage prepaid and sent to the following addresses:

**To Kiewit Infrastructure South
Co.:**

Kiewit Infrastructure South Co.

450 Dividend Drive

Peachtree City, GA 30269

Attn: Chris Massmann

To. COMPANY NAME:

IN WITNESS WHEREOF, the Parties have caused this Confidentiality and Non-Disclosure Agreement to be executed by their duly authorized officers or agents effective the day and year first above written.

Contractor Name
Kiewit Infrastructure South Co.

Company Name

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____