

SOUTH CAROLINA **CONSTRUCTION** **NEWS**

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**Construction Team Completes
Clemson University's Barnett Hall
Renovations in 88 Days**

2

**ABC of the Carolinas Excellence
in Construction Awards**

7

**South Carolina Transportation
Infrastructure Bank Approves
Road Funding Plan**

15

**Guest Editorial: South Carolina
Supreme Court Rules on Bond
Claims Case**

17

**Guest Editorial:
A Formula for Growth**

20

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Construction Team Completes Clemson University's Barnett Hall Renovations in 88 Days

*By Heather Seftel-Kirk
South Carolina Construction News*

Waldrop Mechanical Services recently served as prime contractor on a design-build project for the successful delivery of Clemson University's \$3.5 million Barnett Hall renovation. The leadership role - the first time a mechanical contractor has served as prime contractor for a South Carolina stage agency - resulted in a project that was completed ahead of schedule, under budget and with a superior level of quality than originally planned.

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In November Waldrop received recognition for the project's successful delivery with a best-of-class Associated Builders and Contractors (ABC) of the Carolinas Eagle Award at the association's Excellence in Construction awards banquet in Charlotte, North Carolina.

Originally constructed in 1964, the 36,000 sq. ft. student residence includes living space for 157 students, along with public spaces and meeting rooms. The renovation's original scope of work included the total demolition and replacement of the mechanical systems, upgrading electrical support systems, removing and replacing existing single pane windows with thermal pane systems, fire alarm modifications and replacing the building's automation system.

The biggest challenge at the outset: the project had to be completed during the university's 88-day summer break and none of the work, including the asbestos abatement contracted separately by the university, could begin until the students had moved out.

Waldrop won the project through a competition among pre-qualified contractors and began the unique process of leading the design-build project as the prime contractor.

Waldrop executive vice-president Dennis Pruitt says, while other companies may shy away from taking on this level of responsibility, Waldrop uses its wide breadth of experience and history of taking on complex projects to embrace the challenges.

"We have tremendous depth of construction experience and a strong engineering background within the company," he said. "That, coupled with our design experience qualifies our team in analyzing projects and gives us the ability to effectively manage a project from concept to a satisfactory end result."

Pruitt says Waldrop responded to and won the existing RFP (request for proposal) but then, in looking at the details, didn't believe the design concept would best serve the university's overall interests relative to cost, maintainability, and energy conservation.

"As the design-build contractor, we had the ability early on to evaluate the process and the original design concept," he said. "From the start we looked at the design criteria, constructability issues and cost impacts and were able to streamline the

process and improve what had already been set by the university."

"The university had an HVAC design concept but we didn't think it was the best application for this project," he says. "We went through a process of helping them understand that the original design concept was not the only option available, gave them additional options to consider, and helped facilitate their decision-making process toward applied systems that better served their needs."

The resulting change provided an

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HVAC system that is more efficient and will require less maintenance over its useable life. It required less money than the original budget and the team achieved its installation faster than anticipated.

This, Pruitt says, is the part of the project he is most proud of. "Most companies would have taken the existing design and run with it. There were a significant number of design criteria and constraints to consider to meet the client's objectives and in this case, we are very proud to have been able to deliver a better product for our client."

Pruitt says many projects of this nature come strapped with financial penalties for incompleteness by the due date – in some cases to the tune of \$36,000 per day – but he believes selecting a quality team mitigates this potential risk, as does extensive pre-planning and a thorough understanding of how to bring value to the client.

"Many people view value as bottom dollar," he says. "We tend to think of best value as getting the highest quality product for your budget. In design-build applications this starts with quality subcontractors who have both the design experience to offer competent concept alternatives and the construction resources to deliver a quality installation within the budget allocated."

The contracting team had some time to extensively plan and schedule the project between the January 2013 contract award and beginning of field work in May.

Pruitt said Waldrop included extensive due diligence in the planning and built flexibility into the schedule because, despite best efforts, things don't always go as planned and scheduled in renovation projects.

Pruitt says part of Waldrop's project management philosophy, and one that may be unique on many projects, is utilizing the entire team's knowledge and skills. "Why wouldn't you use every bit of knowledge and experience at your disposal, knowing it will benefit the client in the end?"

He says everyone in the project had the opportunity for input and problem-solving discussions, resolving design concept and constructability issues well ahead of the team ever leaving the meeting room.

Bob Jacques, Manager of Hajoca Taylors, area supplier of pipe and plumbing materials and long time vendor of Waldrop, says, "The performance of the Waldrop team exemplified what good and effective project management principles and teamwork can bring to a project and an owner." Added Jacques, "We along with others in our in-

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Waldrop Mechanical Services received ABC of the Carolinas 2013 Eagle Awards for Clemson University Barnett Hall, Clemson University Life Science Facility and TD Bank Customer Call Center projects. Top row left to right: Rodney Hinton, Palmetto Air and Water Balance; Scott Hall, Dean Hall insulation; Bob Jacques, HAJOCA; Dan Polstra, Trane; Gary Burke, Waldrop Mechanical Services; John Cantrell, Waldrop Mechanical Services; Terry Kennemore, Waldrop Mechanical Services; Ken Clark, Thermal Resource Sales and Ed Mathis, Peritus. Engineering & Associates, Inc. Bottom row left to right: Paul Justice, Bonitz; Jeff Goodlett, Waldrop Mechanical Services; Aprille Bell, Dixon Hughes Goodman; Brandon Glover, Waldrop Mechanical Services; John Knox, Waldrop Mechanical Services and Donnie Dockery, Thermal Resource Sales.

dustry have come to expect this type of stellar performance from Waldrop on every project they perform."

The Greenville branch of Johnson Controls welcomed the opportunity to help Waldrop and Clemson meet the university's goal of reducing energy consumption. Team Leader, Building Efficiency Donnie Dockery says, "We were challenged to install the energy control system into an existing building with limited access. The perfect solution was a wireless building automation system that eliminated the surface mounted raceway option." Dockery described the work as an "out-of-the-box" solution to provide an effective energy control systems within the tight construction schedule.

Waldrop project manager Brandon Glover says the team needed everyone's buy-in and effective communication flow.

For example, Peritus Engineers and Associates Inc., the project's engineers of record, joined in the collaborative spirit. President Jody Parker says, "As prime contractor, Waldrop's management co-ordinated meetings with the design team, major subcontractors and vendors to identify common project objectives as well as refine the timeline necessary to meet the challenging project schedule."

"Because we are often a subcontractor on a project we

could empathize with our subcontractors and understand the trickle-down effect of responsibility on subcontractors on most projects," says Glover. "We feel things on projects can often be handled differently than they are and part of that is giving people the time they need to do the work they are contracted to do."

To this end, Glover says once an initial schedule had been established, with time allotted for each trade to do the work they were assigned, the entire team took part in adjusting and amending the schedule to take into account



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work that needed to be done.

"We had to be both optimistic about what we could achieve and pessimistic about what could possibly go wrong as we had to plan for the good, the bad, and the ugly while hoping the bad and ugly never materialized," says Glover. "No plan or process is perfect but that early collaboration covered a lot of ground."

It also set the groundwork for a comfort and communication level that Glover says helped the process. "I wanted to be kept in the loop with what was happening but contractors were also encouraged to work directly with each other, rather than going through a hierarchy of coming to me first," Glover said. "Working with each other for those two months before work actually began meant people were very clear on who had responsibility for what and they were familiar enough with each other to feel they could approach whoever they needed to directly. You can have that type of model when you are working with reputable subcontractors who embrace a team approach."

Glover also credits site superintendent Tony Baron, who managed all of the field coordination, handled site issues and made judgment calls along the way.

Management and coordination of the project team and site issues are skill sets in their own rights and something Waldrop works to develop among its staff. "We have a great generation of leaders within our company," says Pruitt. "One of the hardest and most important things we do is transferring that standard and those skills to those coming up from the next generation."

He says the company achieves success by maintaining a culture of leadership on a day-to-day basis and checking in regularly – not just annually as many companies may do – to ensure standards are being met and that every staff member is taking steps to grow and learn.

Although not a component of the scope of the design-build project, Waldrop also had responsibility to coordinate with the university and its asbestos abatement contractor. This included sequencing and coordinating its efforts alongside the demolition and concurrent new construction.

"We knew there was asbestos," Pruitt says. "Once the contractor got started, the asbestos was found to be more extensive than expected. Though this was a contractor responsible directly to the university, we worked closely with them and they were successful not only in getting the work done but also in getting it done in less time than expected."

Glover says the abatement contractor proved easy to work with and the company's own self motivation to complete the work effectively proved invaluable. "If they hadn't worked as efficiently as they did, it would have impacted us and interfered with our ability to deliver what we had promised."

Early in the construction, better-than-expected progress had been achieved and the university took the opportunity to improve the project by adding new flooring, painting, additional drywall and ceiling work and an extensive mill-

Continued on page 19

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2013 Annual Excellence in Construction Awards

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GENERAL CONTRACTOR PROJECT OF THE YEAR



Brasfield & Gorrie, LLC
Moses H. Cone Memorial Hospital — North Tower Expansion
Healthcare - Over \$50 Million

SPECIALTY PROJECT OF THE YEAR



Adams Electric Company
Syngenta
Electrical - \$2 to \$5 Million

2013 EXCELLENCE IN CONSTRUCTION



GREEN AWARD WINNER

Brasfield & Gorrie, LLC

Moses H. Cone Memorial Hospital North Tower Expansion

The Carolinas face many environmental issues that directly involve the construction industry. The Carolinas Green Award honors projects that incorporate various sustainable practices to help preserve our region and improve our quality of life.



FREE ENTERPRISE AWARD WINNER

Brasfield & Gorrie, LLC

Moses H. Cone Memorial Hospital North Tower Expansion

The Free Enterprise Award is given to the general contractor with the largest number of ABC member subcontractors, suppliers, and associate members working directly on the project. The winner is selected from Eagle award recipients.



SCHOOLS - \$2 TO \$5 MILLION

Choate Construction Company

Elon University Numen Lumen Pavilion

Location: Elon, North Carolina

The newly-constructed Numen Lumen Pavilion on the campus of Elon University receives its name from the university's historic motto, which is Latin for "intellectual and spiritual light."



SCHOOLS - \$10 TO \$25 MILLION

Metcon, Inc.

Sandy Grove Middle School

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Location: Lumber Bridge, North Carolina

Sandy Grove Middle School (SGMS) is in an elite class of buildings that generate more energy than they consume.



Monteith Construction Corp

Horry Georgetown Technical College Building 300

Location: Conway, South Carolina

Building 300 accommodates construction management, golf course management, and engineering classes for Georgetown Technical College.



SCHOOLS - \$25 TO \$50 MILLION

Edifice, Inc.

UNC Charlotte Belk Hall

Location: Charlotte, North Carolina

Belk Hall, a five-story, apartment style residence hall was built in an ideal location on UNC Charlotte's campus – situated between the campus' new football stadium and student union.

EAGLE AND MERIT AWARDS

Associated Builders
and Contractors Inc.



Lend Lease (US) Construction Inc.

Duke University West Campus Steam Plant

Location: Durham, North Carolina

The Duke University West Campus Steam Plant Project in Durham, North Carolina is a \$32 million renovation project located between the Duke University West Campus and Duke University Medical Center.



Rodgers

Levine Center for Wellness and Recreation

Location: Charlotte, North Carolina

The Levine Center for Wellness and Recreation houses an aquatic center, three gymnasiums, a fitness center, indoor track, studios for dance and fitness classes, and provides facilities for intramural and collegiate athletes, as well as classrooms, faculty offices, and a kinesiology laboratory.



SCHOOLS - OVER \$50 MILLION

Balfour Beatty Construction

Appalachian State University Plemmons Student Union

Addition & Living Learning Center

Location: Boone, North Carolina

Plemmons Student Union, which was built in 1967, had undergone several renovations since its original construction. The Student Union now boasts the University's largest multipurpose room.



China Construction America of SC, Inc.

River Bluff High School

Location: Lexington, South Carolina

River Bluff is owned by Lexington County School District One and is a facility for public education. The building sits just off the Historic Corridor, Corely Mill Road, in Lexington, South Carolina.

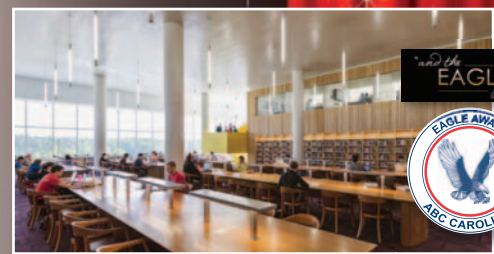


Skanska USA Building Inc.

James B. Hunt Jr. Library

Location: Raleigh, North Carolina

The new building embodies the 21st Century academic library, placing an emphasis on meeting the needs of today's students using a variety of learning spaces.



ELECTRICAL - \$2 TO \$5 MILLION

Adams Electric Company

Syngenta

Location: Durham, North Carolina

The new facility allows for improved control of the greenhouse climate, which provides Syngenta scientists with information they can use to develop the next generation of crops.



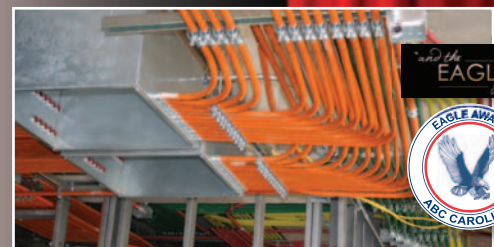
ELECTRICAL - OVER \$10 MILLION

Adams Electric Company

Moses H. Cone Memorial Hospital North Tower Expansion

Location: Greensboro, North Carolina

The \$200 million, six story addition/renovation is the single largest investment Moses Cone Health has made.



2013 EXCELLENCE IN CONSTRUCTION



CHURCHES - \$10 TO \$25 MILLION

Edifice, Inc.

Christ Lutheran Church

Location: Charlotte, North Carolina

The state-of-art sanctuary creates an immediate sense of awe upon entering the space. The addition of worship space was designed and constructed to compliment both the traditional and contemporary worship services.



MECHANICAL - \$1 TO \$2 MILLION

W.B. Guimarin & Co., Inc.

Peace Center for the Performing Arts

Location: Greenville, South Carolina

The Peace Center renovations and additions expanded the main lobby of the existing performance hall and added a new donor's lobby.



Waldrop Mechanical Services

TD Bank – Customer Call Center

Location: Greenville, South Carolina

TD Bank opened its \$85 million corporate campus off I-85 in March 2013. The complex was originally built by The South Financial Group in 2010, but sat largely unused until TD Bank acquired South Financial later that year.



MECHANICAL - \$2 TO \$5 MILLION

W.B. Guimarin & Co., Inc.

Providence Northeast Hospital

Location: Columbia, South Carolina

Providence Hospital Northeast was built in 1999 with 46 beds. The renovations of Providence Hospital Northeast, located in the suburbs of Columbia, South Carolina, was a hands-on redesign by W.B. Guimarin's specialists to meet the needs of the hospital's award winning orthopedic service line.



FINALIST



Waldrop Mechanical Services

Clemson University – Barnett Hall

Location: Clemson, South Carolina

Built in 1964, Barnett Hall featured three floors of living quarters as well as a number of public meeting spaces and a central mechanical room on the main level. The overall project called for total demolition and an upgrade of the mechanical systems.



MECHANICAL - \$5 TO \$10 MILLION

Waldrop Mechanical Services

Clemson University - Life Sciences Facility

Location: Clemson, South Carolina

For the University, this long-anticipated state-of-the-art teaching and research center is expected to open new avenues of research.



MECHANICAL - OVER \$10 MILLION

Kirlin Carolinas, LLC

UNC Imaging Research Building

Location: Chapel Hill, North Carolina

The Imaging Research Building, a world class cancer and major disease research facility, is UNC Chapel Hill's largest research building.

EAGLE AND MERIT AWARDS

RENOVATION - UNDER \$2 MILLION

Miller-Valentine Commercial Construction

Protocol School of Washington

Location: Columbia, South Carolina

The property, an old veterinary hospital, was purchased in 2012. After extensive renovations it has been transformed into the new corporate headquarters for the Protocol School of Washington.



RENOVATION - \$5 TO \$10 MILLION

Choate Construction Company

Carolina Inn Phase II

Location: Chapel Hill, North Carolina

The Carolina Inn Phase II renovations project included renovations of the 1970 wing, 1955 wing, South Lobby, Gift Shop, and public restrooms.



Danis Construction Company, LLC

Cisco Systems RTP 2 Labs, UPS, Generator & Roof

Location: Research Triangle Park, North Carolina

The final result of the overall project provided a new 3,750 sq.ft. computing lab space, two conference rooms, an upgraded chiller plant, a new electrical room for generator back-up power, a new roof and a facelift to the exterior loading dock area.



RENOVATION - \$10 TO \$25 MILLION

LeChase Construction Services, LLC

Duke University Baldwin Auditorium

Location: Durham, North Carolina

Baldwin Auditorium was originally built in 1927. The renovations transformed the facility into an intimate, state-of-the-art, acoustically superior music venue while retaining the historic grandeur of this iconic building.



RENOVATION - \$25 TO \$50 MILLION

JE Dunn Construction

Health Pavilion Hoke

Location: Raeford, North Carolina

As one of the fastest growing counties in North Carolina, Hoke County had a crucial need for increased medical facilities. With the first turning of dirt an outpatient building, medical office building, and central energy plant were built.



HEALTHCARE - \$5 TO \$10 MILLION

Brasfield & Gorrie, LLC

Carolinas HealthCare System Morehead Parking Deck

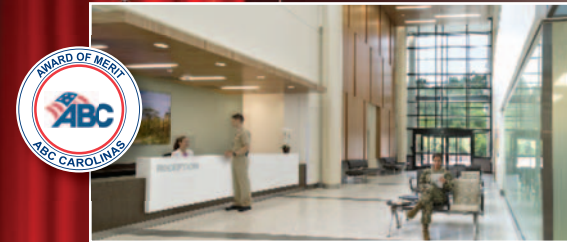
Vertical Expansion

Location: Charlotte, North Carolina

The Carolinas HealthCare System (CHS) Morehead Medical Plaza Parking Deck vertical expansion is a two-level addition to an existing six-level parking deck, located on the corner of Kenilworth Avenue and East Morehead.



2013 EXCELLENCE IN CONSTRUCTION



HEALTHCARE - \$25 TO \$50 MILLION

Brasfield & Gorrie, LLC

Mission Health SECU, Cancer Center

Location: Asheville, North Carolina

The scope of the project included numerous additions and renovations which reshaped the campus and brought world class cancer treatment abilities to the region.

Robins & Morton

Pineville LTAC & Rehab Hospital

Location: Pineville, North Carolina

Pineville LTAC and Rehabilitation Hospital is the first of its kind; combining Carolinas HealthCare System, a Long Term Acute Core (LTAC) and Carolinas Rehabilitation, an inpatient physical rehabilitation hospital.

W.M. Jordan Company

Naval Hospital Camp Lejeune

Location: Jacksonville, North Carolina

With the growing need for a larger facility on base, the two-year project expanded all fourteen departments and allows the Navy to care for an additional 9,000 patients while strengthening the hospital's mission: to excel in family-centered care.

HEALTHCARE - OVER \$50 MILLION

Brasfield & Gorrie, LLC

Moses H. Cone Memorial Hospital North Tower Expansion

Location: Greensboro, North Carolina

This is the first healthcare facility in North Carolina – and one of only three hospitals in the nation – to heat and cool its acute care patient rooms with chilled beams.

FINISHES - OVER \$10 MILLION

Precision Walls, Inc.

Duke Medical Pavilion

Location: Durham, North Carolina

The eight-story Duke Medical Pavilion complements the glass and steel style of the recently-opened Duke Cancer Center. It was designed specifically with the needs and comforts of patients and their loved ones in mind.

OTHER - UNDER \$2 MILLION

Miller-Valentine Commercial Construction

Azalea Retail Center

Location: Charleston, South Carolina

The Azalea Retail Center is a speculative retail center that boasts several high-end exterior finishes and was designed to give the building as much flexibility as possible for future tenant usage.

OTHER - \$25 TO \$50 MILLION

Rodgers

Jerry Richardson Stadium, Judy W. Rose Football Center & McColl-Richardson Field

Location: Charlotte, North Carolina

Prominently sited on the University's campus, the stadium is designed for future expansion to accommodate up to 40,000 (currently comprised of 15,314-seats) and serves as the centerpiece to the 49ers complex.

EAGLE AND MERIT AWARDS

Associated Builders
and Contractors Inc.



OTHER - OVER \$50 MILLION

Barnhill / Balfour Beatty, A Joint Venture

Wake County Justice Center

Location: Raleigh, North Carolina

The Wake County Justice Center was designed and constructed with the capacity for future growth, ensuring that the needs of the Tenth Judicial District are met for the next 30 to 50 years.



COMMERCIAL - \$2 TO \$5 MILLION

Choate Construction Company

Accreditation Commission for Health Care

Location: Cary, North Carolina

This new building will serve as headquarters for ACHC and aid in fostering the collaborative, functional work environment needed to grow their business. This was ACHC's first foray into building ownership.



Choate Construction Company

Linear Technology Raleigh Design Center

Location: Cary, North Carolina

A chip and software development and design firm, Linear Technology Corporation's expansion within North Carolina's Triangle region includes the addition of their first owned facility in this state.



COMMERCIAL - \$5 TO \$10 MILLION

Miller-Valentine Commercial Construction

Avtec

Location: Lexington, South Carolina

Over the past 34 years, this Gilbert, South Carolina-based business has evolved. In 2012 they came to the conclusion that a new facility was necessary if they were going to continue to grow at such a substantial rate.



COMMERCIAL - \$25 TO \$50 MILLION

Danis Construction Company, LLC

Biogen Idec Building 26

Location: Research Triangle Park, North Carolina

The latest addition to the North Carolina campus focuses on patient support services and financial assistance.



COMMERCIAL - OVER \$50 MILLION

Balfour Beatty Construction

SPX Corporate Headquarters

Location: Charlotte, North Carolina

SPX Corporation, a Fortune 500 company with operations in more than 35 countries, is settling into its new corporate headquarters in South Charlotte's Ballantyne Corporate Park.



Rodgers

Gragg and Woodward Office Buildings & Parking Decks

Location: Charlotte, North Carolina

Developed by Bissell, the Gragg and Woodward buildings represented the largest speculative office project under construction in the nation at the time. The project was a big risk considering not a single tenant had been lined up at the time of construction.



"and the
EAGLE
goes to..."



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for design and production of the EIC awards publication

South Carolina Transportation Infrastructure Bank Approves Road Funding Plan



South Carolina Construction News staff writer

The South Carolina Transportation Infrastructure Bank Board (SCTIB) has voted unanimously to approve a project list that provides up to \$550 million in funding for a mix of both construction and design work on the South Carolina's Interstate Highway System.

Leslie Hope, the director of government relations and divisions for the Carolinas AGC, says South Carolina has the fourth largest state-maintained highway system in the nation with 41,444 lane miles. She says that expanse of roadways, combined with low taxes, has resulted in roads that are in poor condition and sometimes dangerous for drivers.

"South Carolina's current gas tax of 16.75 cents per gallon is the third lowest in the nation and was last raised in



1987 by three cents. It has never been adjusted for inflation or additional increases since that time," she says. "South Carolina has a \$29 billion road need and the business community pulled together this past session to make our legislators keenly aware of the road funding needs in our state."

Another group interested in the road projects is the South Carolina Alliance to Fix our Roads (SCFOR). The organization, comprised of 34 companies including car and truck rental agencies, 18 state wide associations from AAA to tourism and 30 or so local chambers of commerce, has been in existence since 1981 under a variety of different names but has always focused on improving transportation systems.

Executive director Bill Ross says current conditions are the result of past governors' policies of no tax, in theory



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intended to garner public support. The irony though: a recent survey reports 50 per cent of the population in favor of a slight gas tax increase to support road development.

"Even without a lot of education the public recognizes this as an issue and is ahead of the legislature on how to fix it," he says. Ross cites damage to vehicles and lost time sitting in traffic as key factors behind the public awareness.

Besides a gas tax Ross suggests South Carolina could follow the model of other states that have set indexing proposals to include driving-related fees including registration and licensing to factor into the funding sources.

According to an October 2013 report by TRIP, a nonprofit organization that researches, evaluates and distributes economic and technical data on surface transportation issues, 84 percent of the \$156 billion worth of commodities delivered annually from sites in South Carolina is transported by trucks on the state's highways.

The TRIP report indicates that a balanced approach to infrastructure investment is needed for resurfacing existing roads and highways, widening and fixing our interstates, fixing and strengthening load restricted and structurally deficient bridges



When compared to its primary competitors for economic development, the report indicates that "South Carolina, Georgia and North Carolina are far behind. South Carolina spends an average of \$15,000 per mile while Georgia spends \$35,000 per mile and North Carolina spends more than \$150,000 per mile on roads."

According to Hope, since the legislature approved the funding in June, the SCDOT staff and commission have worked to pull together the most current road project priorities, as outlined in the State's Transportation Infrastructure Plan (STIP). Those projects were submitted to the State Infrastructure Bank (SIB) and then the Joint Bond Review Committee (JBRC) for approval.

The JBRC gave final approval of the projects on Dec 4, 2013. That \$549 million plan includes four projects in the state and funding to start the engineering

of other projects, she said.

The funding, the result of Act 98 passed by the General Assembly during its 2013 session, allocates \$50 million per year to the South Carolina Department of Transportation (SCDOT) who will in turn, turn that funding over to the SCTIB board for the approval of projects.

The funding list approved by the SCTIB board includes: a 4.3 mile project at the I-85/385 interchange in Greenville County, ranked number two on the Interstate Improvement priority list; widening of I-20 in Lexington County; I-85 widening in Spartanburg and Cherokee counties - Phase I and Phase II; and I-77 widening in Richland county.

The SCTIB board has also approved \$10 million for preliminary engineering of the number one project on the Interstate improvement priority list: the I-20/I-26 interchange project in the Midlands commonly known as "Malfunction Junction."

Hope says construction projects "have to go through, at times, some rather lengthy planning stages, so the planning will begin immediately and the public could start to see construction on some of the projects by 2016." She is waiting on details from SCDOT to outline bidding processes and timelines.

Ross says the move to fund projects is about time, but will it be in time? "South Carolina has \$330 billion invested in infrastructure," he says. "When you don't maintain something it gets costlier to fix and the work of fixing it becomes more complicated."

Once work on the four projects identified begins, Ross says it will be up to SCFOR and other like-organizations to keep the pressure on and to ensure work continues in this area. "Transportation is a major factor affecting quality of life and ultimately safety. South Carolina is not alone in the condition of some of our infrastructure but we must be diligent in ensuring our issues are resolved."

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South Carolina Supreme Court Rules on Bond Claims Case



Guest Editorial by John Davidson, Member, Nexsen Pruet

On November 13th, the South Carolina Supreme Court reversed a recent ruling of a state Circuit Court. The opinion involved “notice provisions” which help subcontractors and suppliers to preserve bond payment rights.

My law partner, Henry W. Brown, wrote about the Circuit Court ruling for the *South Carolina Construction News* website in November. The heart of the matter is S.C. Code § 29-5-440 and its “Notice of Project Commencement” and the responsive “Notice of Furnishing.” In the initial ruling, the lower court awarded summary judgment to an insurance company that issued a bond on a high school construction project. The court held that even if a General Contractor does not provide “Notice of Project Commencement,” subcontractors must still provide “Notice of Furnishing.”

In its reversal, the S.C. Supreme Court seems to give some additional protections to claimants under certain payment bonds. See: *Hard Hat Workforce Solutions, LLC v. Mechanical HVAC Services, Inc. et al*, Op. No. 27329 (S.C.Nov. 13, 2013)

History of the Case

The case arose like this. The General Contractor on a public high school project hired a first-tier subcontractor for mechanical work and required that first-tier subcontractor to provide a payment bond. The payment bond provided read, in pertinent part:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said Subcontract and any and all modifications of said Subcontract that may hereafter be made, then his obligation shall be null and void otherwise it shall remain in full force and effect.

... There said Principal and the said Surety agree that this Bond shall inure to the benefit of all persons supplying labor and material in the prosecution of the work provided for in said Subcontract, as well as to the Obligee, and that such persons may maintain independent actions upon this Bond in their own names.

The first-tier subcontractor supplied the bond and then subcontracted ductwork installation to a second-tier subcontractor, who subcontracted with Hard Hat for skilled labor. During the project, Hard Hat’s manager sent three emails to the first-tier subcontractor informing them of work they were doing and also to offer to do other work directly for the first tier sub. After completing the work, Hard Hat made a claim on the payment bond alleging that it was unpaid for \$85,000 of work.

The payment bond surety took the position that Hard Hat could not collect on the payment bond because it had not given adequate notice of its work through a Notice of Furnishing, as required by section 29-5-440 and because the first-tier subcontractor had paid the second-tier subcontractor in full.

The trial court granted summary judgment to the surety on the basis that section 29-5-440 was implied to be a part of all bonds.

The pertinent portion of 29-5-440 relied upon by the trial court provides:

Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of work provided for in any contract for construction, and who has not been paid in full...shall have the right to sue on the payment bond for the amount...unpaid at the time of the institution of such...

A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor

within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor shall be personally served or sent by fax or sent by electronic mail or sent by registered or certified mail, postage prepaid, to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

* * *

For purposes of this section, "bonded contractor" means a contractor or subcontractor furnishing a payment bond, and "remote claimant" means a person having a direct contractual relationship with a subcontractor of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. [Emphasis added]

Supreme Court Appeal

On appeal, the South Carolina Supreme Court reversed the trial court. In a 3-2 decision, Justices found that Hard Hat's bond claim **did not have to comply** with the Notice of Furnishing provision found in 29-5-440.

The basis of the Supreme Court's finding rests on the language of the payment bond itself and the distinction between statutory bond and common law bonds.

- The Court defined a **statutory bond** as "those either (1) provided because required by statute and in accordance with the minimum guidelines set out in section 29-5-440 of the South Carolina Code or (2) that contain express or implied reference to the provisions detailed in the statute." (*Hard Hat* at pg. 7)
- The Court then defined a **common law bond** as "either (1) any bond not required by statute (i.e., voluntarily provided, perhaps to meet a contractual provision in the agreement between the parties), or (2) any bond required by statute but that specifically varies the statutory requirements so as to provide broader protection." (*Hard Hat* at pg. 8)

Based upon those definitions, the Court said that, in this case, the payment bond was not provided because it was required by a statute but by the contract between the General Contractor and the first tier subcontractor. Further, it did not contain any reference to the 29-5-440 and its notice requirements. Therefore, the Court found that the bond should be interpreted **according to its terms** and not those of the statute.

Impact of the Ruling

Although the high court's ruling does not answer all questions that construction industry professionals may have, it is clear that 29-5-440 does not apply to all bond claims. And, that may open up the group of claimants on such bonds. However, to the extent that the bonds include a reference to the statute, the statutory requirements will continue to apply.

Additionally, the Court's decision was split, and the minority concurring opinion did not agree that with the statutory/common law bond distinction. So, it is conceivable that these questions may well arise again.

John Davidson is a Member (partner) at Nexsen Pruet in Columbia. From writing initial contracts to project close outs, John helps construction industry clients in virtually all phases of their work. He has assisted in hospital, nursing home, assisted living, condominium, apartment, retail, industrial and private residential projects that, when combined, total more than \$500M.

work package. In effect, Barnett Hall received a complete facelift, on top of the originally-planned hidden improvements.

"We got about five weeks in," says Pruitt. "The university saw how quickly we were moving ahead and approached us about increasing the original contract by about 11 per cent."

Clemson University project manager Sam Zanca says from the outset this project had its challenges, with limited funding and a tight construction timeline.

"The team stepped up and worked with the university to develop an improved scope that met our needs and was within the available budget," he says. "As a result of the team's efforts in reducing costs we were able to acquire additional work scope for the building that was not possible at the beginning."

Additional work also included new insulation on existing plumbing systems, waterproofing enhancements, and pressure washing the exterior of the building and hard-scapes.

DP3 Architects project manager J. Michael Taylor says Waldrop set the quality, communications and teamwork standards for the entire project, which supported the additional work load. "Waldrop delivered the project early, besting the original schedule and budget parameters in time for new students and their parents to arrive."

Taylor says Waldrop was outstanding in developing and promoting teamwork with all project participants, consistently emphasizing job safety, project organization, scheduling and construction quality.

Bonitz Inc. brought its expertise in the installation of metal studs, drywall, plaster repair, acoustical ceilings and floor coverings. Vice President Paul Justice says they were challenged by the extra work assigned to them part way through but worked closely with Waldrop to budget and implement a plan that wouldn't impact too many others down the line.

For its part Justice says his team worked extra hours and coordinated their efforts closely with the other trades before and after them in the cycle.

"Waldrop really took ownership of the project and got everyone working together towards a common goal," he says. "As a subcontractor themselves they understand it is in the best interests of everyone to ask questions, identify problems and reduce the impact all the way down the line."

Justice says Waldrop's open approach facilitated a smoother construction process because, after the additional work had been assigned, Bonitz had the ability to go directly to the trade following them in the schedule to ask about their concerns and timelines they had to meet so the crews could work together.

"At no point did anyone ever feel they were part of a one-way conversation," says Justice. "We shared our concerns and Waldrop shared theirs. There was a mutual appreciation between all of the team members that was key to everyone working so effectively."

Dean Hall Insulation is another company impacted heavily by the extra work, and by the amount of asbestos dis-

covered once demolition work began. Manager Scott Hall says his team had responsibility for insulating the chill water, mechanical and steam systems in the residence hall. "We expected asbestos in the previous HVAC system but once demolition began asbestos was also discovered around the plumbing systems," he says.

Hall says the company added more manpower and worked longer hours to overcome the challenge of delivering the additional work within the same timelines. "Our company is great at handling this kind of challenge and Waldrop is great on the planning side, addressing and talking about challenges so we work well together."

Hall says there had never been any doubt the project would be completed on time. "The students were promised a dorm. They had to move in whether we were done or not so we had to be done."

Burdette Engineering Inc. coordinated the project's electrical engineering. President Don Burdette says Waldrop's general contracting responsibilities included navigating code interpretations with the Office of the State Engineer, and monitoring scope creep while accommodating Clemson's request for additional work.

"Waldrop managed all of the challenges and assumed the mantle of coordinator for all the work to maintain schedule, whether it was under their contract or not," Burdette said. "This often involved occupancy of the same floor by multiple contractors with successful results."

At its peak the project had 85 craftsmen on site working in close quarters concurrently.

Burdette says the HVAC design to replace the existing fan coil units with induction units required creativity of both design and construction elements, including resolution of code issues and constructability obstacles. He adds that Waldrop managed each of these issues and was ready to commence work on day one of the construction schedule.

One of the project's key enhancements has resulted from the revised HVAC system.

The new system, achieved through two outside air units installed on the roof, required duct and pipe systems to be installed down through new chases and the building's outside perimeter. Though complex, the system provided the university a two percent cost savings, is more efficient and will require significantly less maintenance.

Waldrop's President Bill Caldwell says he is proud of his team for completing such a unique project. "This project was the first of its kind completed under this model, with the mechanical contractor serving as prime contractor on a design-build project," he said. "I'm elated our company was involved and set the stage for future design-build, mechanical prime projects throughout South Carolina. I hope this project's success will make this the project delivery model for other state agencies in the future."

Pruitt says Waldrop has a reputation in the industry already for its ability to tackle complex projects. "We have a great history of success. This project is an example of how we strive to execute our work. Now we hope to take its success and begin talking with other universities and state agencies to see if we can bring the same project model, delivery method and success to their future projects."

A Formula for Growth

*Guest Editorial by Lauren Richardson, Consultant,
Successful Ventures Coaching and Consulting*

There are many great projects mentioned in this issue of South Carolina Construction News. I believe that each one of these projects began with a relationship between an owner and a general contractor or a general contractor and a sub contractor. Whether you have a dedicated business development staff or you choose to use your staff or perform that function yourself, businesses are grown by building good relationships.

There is not always a direct path from the relationship to the opportunity to the project. If you map out the relationships that led to the opportunities represented in the projects that won this year's ABC of the Carolinas Excellence in Construction awards, you will find a complex web of people were involved. I spoke to a contractor the other day who named some fourteen different people who were responsible for giving his company the opportunity to work on several aspects of a major project in 2013. They included a GC the company had worked with on several past projects, a vendor, and several new people.

If you need to grow your business significantly in 2014, you will want to continue to foster relationships with present clients, vendors and others who might be able to refer your company for a new opportunity. In addition to repeat business and referrals you may need to also go out and develop new relationships, new prospects. Do you know how many new relationships you will need to make your numbers next year? The answer to that question depends on how many of the people you meet turn into opportunities to bid on a project...and also on how many of those bids you win. In other words, how many leads do you generate and how many of those leads do you convert first into an opportunity to bid and second into new project.

With these statistics and a few others in hand, you can plan what activity will be necessary for next year and also manage your team. It seems simple, but it is effective. You will need to plug your statistics into the Five Part Formula to get started. See the formula below:

1. Number of Leads x % Conversion Rate = Number of Customers
2. Number of Transactions / Number of Leads = Conversion Rate
3. Number of Transactions / Number of Customers = Average Number of Transactions Per Customer
4. Number of Customers x Number of Transactions x Average Dollar Sale = Gross Revenue
5. Revenue x % Margin = \$ Profit

This formula will work to plan your personal activity levels if you are in the Business Development function at your company and it will also work for a manager or owner who is looking to manage the team. You can use it to forecast based on present activity and to plan for the future.

Here's an example:

20 Leads x 25% = 4 Customers
 4 Transactions / 20 Leads = 25% Conversion Rate
 4 Customers x 4 Transactions X \$750,000
 Average Dollar Sale = \$12,000,000 in Gross Revenue
 12,000,000 x 5% Profit Margin = \$ 600,000 Profit

You can also run this formula backwards to see how many leads you will need to generate a certain amount of Revenue or Profit. Had I started with the end in mind, I would now know that I need to generate 20 new leads to gain four new customers who each use my services four times at an average of \$750,000 per project in order to make my numbers for next year.

As a business development professional, I will then begin to create a plan for generating those leads and for converting those leads into customers throughout the year. Each month I'll know how much activity I need to make my numbers and keep things moving for the months to come. If I find myself behind, then I will know to adjust my activity level or refine my skills to bring things back into line. If you pay attention to this formula on a monthly basis and make even small improvements to any part of the formula the end result will be growth.

Successful Ventures, LLC helps business owners and executives identify and make incremental changes that yield significant improvements for the business. Call 803-431-9493 or visit www.successful-ventures.net for more information on our services.



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