

PROJECT MANUAL

FOR

Asbestos Abatement and Demolition of
4505 S Alston Ave. (former Lowes Grove
Elementary School)

PREPARED BY:



August 27, 2024

TABLE OF CONTENTS

Project: Asbestos Abatement and Demolition of 4505 S Alston Ave. (former Lowes Grove Elementary School)
Durham Public Schools
4505 S. Alston Ave.

DPS #: 179-2425-734_4505SAlston_Demo

Table of Contents

DIVISION 0 – PROCUREMENT AND CONTRACTING REQUIREMENTS

001113	Advertisement for Bids
003100	Information Available to Bidders
004113	Bid Form
004313	Bid Bond Form
004393	Bid Packet Requirements
004516.01	Affidavit of E-Verification
004519	Non-Collusion Affidavit
004539	MWBE Policy
004539.01	MWBE – Article V
004539.03	MWBE - Affidavit A
004939.04	MWBE - Affidavit B
004539.05	MWBE - Appendix E
004539.06	Identification of MWBE Participation
005213	Owner-Contractor Agreement
006113	Performance Bond
006211	Submittal Transmittal Form
006279.13	Sales and Use Tax Report – Appendix A
006276	Pay Application Cover Sheet
006319	Request for Clarification
006354	Change Proposal Worksheet
006357	Change Order Request Form
006513	Certificate of Compliance

006523 Contractors General Warranty
006573 Certificate of Non Use of Asbestos-containing Products
077300.01 DPS Formal General Conditions

DIVISION 1 - GENERAL REQUIREMENTS

01 10 00 Summary of Work
01 14 00 Work Restrictions
01 25 00 Substitution Procedures
01 21 00 Allowances
01 22 00 Unit Prices
01 23 00 Alternates
01 25 00 Substitutions Procedures
01 26 00 Modification Procedures
01 26 13 Request for Information
01 29 00 Payment Procedures
01 31 00 Project Management and Coordination
01 32 00 Construction Progress Documentation
01 32 16 Construction Schedule and Reports
01 33 00 Submittal Procedures
01 35 13 Special Project Procedures
01 35 13.01 Tobacco Policy
01 35 13 Name Tag Template
01 52 00 Construction Facilities
01 74 19 Construction Waste Management and Disposal
01 77 00 Closeout Procedures

Division 2 – Asbestos Abatement

- 02092 Codes and Regulations
- 02410 Air Monitoring - Industrial Hygiene Firm Services
- 02503 Temporary Facilities
- 02513 Negative Pressure System
- 02526 Work Area Preparation
- 02560 Worker Protection
- 02562 Respiratory Protection
- 02563 Decontamination Units
- 02563 Project Decontamination
- 02714 Work Area Clearance

Division 3 - Site Work

- 03080 Asbestos Removal
- 03084 Disposal of Asbestos-Containing Waste Material

Appendices

- Appendix A Pework Asbestos Inspection Checklist
- Appendix B Decontamination Area Arrangement

RFP#: 179-2425-734_4505SAIston_Demo

**ADVERTISEMENT FOR BIDS
Durham Public Schools / Durham County**

Sealed bids from licensed contractors will be received by Durham Public Schools, Durham, North Carolina on **September 24, 2024** for furnishing of labor, material, and equipment for the Asbestos Abatement and Demolition of 4505 S. Alston Avenue former Lowes Grove Elementary, 4505 S. Alston Avenue, Durham NC 27713 will be received up to **1:00 PM** from Single Prime bidders at which time and place all bids will be publicly opened and read aloud at **2:00 PM**. Deliver bids to the **Durham Public Schools 511 Cleveland Street, Durham NC 27701, ATTN: Dist Purchasing**. No bid may be withdrawn after the scheduled closing time for the receipt of bids for a period of sixty (60) days.

- Bid security required is 5% of the bid in cash, certified check, or Bid Bond.
- Performance and Payment Bonds for 100% of the contract amount will be required.
- Durham Public Schools reserves the right to reject any and all bids and to waive informalities or irregularities.

Minority Business Participation: Bidders shall note that compliance with County of Durham MBE policies and the North Carolina Statute 143-128.2 (c) are required for this project.

Project scope: Test and abate all asbestos containing materials, remove any Underground Storage Tanks (USTs) onsite, if any, and demolish structures and leave site properly graded, seeded with straw.

Alternate #1: Save 150 bricks from the 2-story structure and transport to DPS Operations on Hamlin Rd. Include in bid as separate item.

Pre-Bid Conference: Scheduled for **September 10, 2024, at 9:00am at 4505 S. Alston Avenue**. Inspection of the site shall be scheduled immediately after the Pre-Bid Conference. The Owners representative will be available to answer questions. **It is Non-Mandatory that prime bidders attend the entire Pre-Bid Conference and visit the site prior to bidding.**

Statement of Qualifications: Each proposal shall be accompanied by a statement of qualifications that demonstrates experience in at least five (5) projects of similar scope within the past three (3) years with references.

Durham Public Schools
Asbestos Abatement and Demolition of 4505 S Alston Ave.
DPS Project No. 179-2425-734_4505SAlston_Demo

For questions regarding this bid, please contact:

Durham Public Schools Purchasing Department:

Dist.Purchasing@dpsnc.net

Subject line: "4505 S. Alston"

Thank you for your consideration.

Signed: Fredrick Davis, II
Executive Director- Building Services
Construction & Capital Planning
Durham Public Schools, Durham, North Carolina

INFORMATION AVAILABLE TO BIDDERS

Durham Public Schools

A-1. SUBMISSION OF BIDS AND BID OPENING:

- A. Bids will be received by Durham Public Schools (DPS) and will be opened and read at the times and places set forth in the Advertisement for Bids. Bidders, or their representative, and other interested persons may be present at the opening of proposals.
- B. The envelopes containing the bids must be sealed and addressed to Durham Public Schools, 511 Cleveland Street, Durham NC 27701 and marked on the outside of the envelope "ATTN: Purchasing Department Bid Proposal for Abate & Demo 4505 S Alston" with the name of the Bidder and his North Carolina State Contractor's License Number.
- C. The Bidder shall assume full responsibility for timely delivery at the exact location designated for receipt of Bids.
- D. In accordance with the Advertisement for Bids, bids will be received for a Single Prime Construction Contract.

A-2. BID DOCUMENTS:

- A. Bid Documents include the Advertisement for Bids, Information for Bidders, Form of Proposal, the Bid Security and the proposed Contract Documents, including any Addenda issued prior to receipt of bids. All requirements and obligations of the Bid Documents are hereby incorporated by reference into the Contract Documents and are binding on the Successful Bidder upon award of the contract.
- B. Bidders may obtain complete sets of the Bid Documents from the issuing office designated in the Advertisement for Bids in the number and for the price, if any, stated therein.
- C. Bidders shall use complete sets of Bid Documents in preparing Bids; neither the Owner nor the Design Consultant shall assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.
- D. By making the Bid Documents available on the above terms, the Owner does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

A-3. DEFINITIONS:

A. THE BID:

A Bid is a complete and properly signed proposal to do the work or designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents and North Carolina law.

B. BASE BID:

The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which work may be added or from which work may be deleted for sums stated in Alternate Bids, if any.

C. ALTERNATES:

An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

A-4. QUALIFICATION OF BIDDER:

- A. If requested by the Owner prior to the signing of the contract, the successful Bidder shall submit a statement of work to be performed by his own forces.
- B. Prior to Contract award or within seven days of the Owner's request to do so, the successful Bidder shall be prepared to demonstrate that his present organization, direct labor force and prior work experience is of adequate size and development to maintain responsible control of the project and to schedule, coordinate and perform the work in an expeditious manner and in accordance with the Contract Documents.
- C. At the request of the Owner, the Bidders, whether residents or nonresidents in North Carolina must be able to show documented evidence of the following:
 - 1. A contractor's license in good standing with the North Carolina General Contractor's Licensure Board (or NC State Board of Examiners for Plumbing, Mechanical, Electrical, and / or Fire Protection only projects) with the appropriate level of limitations and classifications.
 - 2. A current registration in good standing with the North Carolina Secretary of State's to allow the Bidder do business in the State of North Carolina.
- D. The Owner will consider, in determining the qualifications of a Bidder, their record in the performance of any contracts for construction work into which they may have entered with the Owner or with similar public or private bodies or corporations. The Owner expressly reserves the right to reject the bid of any Bidder if such record discloses that such Bidder, in the opinion of the Owner, has not properly performed such contracts or has habitually and without just cause neglected the payment of bills, or has otherwise disregarded his obligations, Subcontractors, material men, suppliers or employees.
- E. The Owner may make such investigation as they deem necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the Owner

all such information and data for this purpose as they may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder, fails to satisfy the Owner that such Bidder is a responsive and responsible Bidder in accordance with N.C. Gen. Stat. 143-128 and 143-129, and the criteria set forth herein. Conditional bids will not be accepted.

A-5. BIDDER'S REPRESENTATIONS:

By submitting his bid, each Bidder represents that:

- A. The Bidder has read and understands the Bid Documents and their Bid is made in accordance therewith; and Bidder agrees to be bound by the terms and requirements set forth in the Bid and Contract Documents.
- B. The Bidder has visited the site, has familiarized themselves with the local conditions under which the Work is to be performed in accordance with Article A-10 herein, and has correlated its observations with the requirements of the proposed Contract Documents.
- C. Prior to the submission of the bid, the Bidder has made known to the Owner any significant discrepancies discovered during the preparation of its bid. These are items that could result in a significant change in time or money.
- D. The submitted bid is based upon the materials, systems and equipment required by the Bidding Documents without exception.
- E. The Bidder has the capability, in all respects, and the moral and business integrity, reliability, technical ability, financial resources, plant, management, superintendence, equipment and materials which will assure effective and efficient good faith performance in full compliance with the Contract Documents and with any and all schedules and Milestone and Completion dates required by the Owner. The Bidder acknowledges and represents that he has made allowances for normal inclement weather as outlined in the Contract Documents, in his estimating, planning and scheduling of the Work. The Bidder hereby certifies that the work shall be completed, in place, in full accordance with the Contract Documents, within the time limits specified.
- F. The Bidder agrees that upon receipt of the Notice of Award, he will execute the formal Contract, and will deliver all bonds and proof of insurance coverage as required by the Specifications.
- G. The Bidder agrees to execute the formal Contract within ten (10) days from the date of Notice of Award, and in case he fails or neglects to appear within the specified time to execute the Contract, he will be considered as having abandoned the Contract, and the Bid Security accompanying this Proposal will be forfeited to the Owner by reason of such failure on the part of the Bidder.
- H. He has made a good faith effort to solicit Minority Business Enterprises (MBEs) per N.C. Gen. Stat. 143-128.2, as subcontractors. The Bidders shall provide the Owner a notarized affidavit with its bid stating that it made the good faith effort required pursuant to G.S. 143-128.2. The Bidder's failure to file the affidavit with its bid shall be grounds for rejection of the Bid.

A-6. BID SECURITY:

- A. Each bid must be accompanied by (1) cash; or (2) a Cashier's Check or a Certified Check of the Bidder in an amount not less than 5% of the bid, made payable to the Owner; or (3) a bidder's bond on the Bid Bond Form provided herein or on a similar form which in every respect materially complies with said Bid Bond, in the amount of 5% of his bid. For purposes of this provision, the amount of the bid shall be the Base Bid plus all positive amount alternates. The Bidder's bond shall be issued by a surety company licensed to conduct business in the state of North Carolina and acceptable to the Owner.

- B. Said bid security is given as a guarantee that the Bidder will enter into a contract if awarded the work and, in the case of refusal or failure to so enter into said contract, the security shall be declared forfeited to the Owner. Such security shall be returned to all but the three lowest Bidders within three days after the opening of bids and the remaining security will be returned within 48 hours after the Owner and the successful Bidder have executed the Contract. If no Contract has been awarded or the bidder has not been notified of the acceptance of his bid within sixty (60) days of the bid opening, the Bidder may withdraw his bid and request the return of his bid security. If, at the Owner's request, the Bidder agrees to extend and maintain his bid beyond the specified 60 days, his bid security will not be returned until the expiration of the period of extension.

A-7. FORFEITURE OF BID BOND:

The Successful Bidder, upon his failure or refusal to execute the Contract within ten (10) days after he has received Notice of Award, shall forfeit to the Owner the security deposited with his bid in accordance with North Carolina General Statute 143-129.

A-8. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, handicap, age, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, handicap, age, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruiting advertising, layoff or termination rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of the nondiscrimination clause.

- B. The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor state that all qualified applicants will receive consideration for employment without regard to race, handicap, age, color, religion, sex, or national origin.

- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the labor union or workers' representative of the contractor's commitments under the Equal Employment Opportunity section of this contract and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. In the event of the contractor's noncompliance with nondiscrimination clauses of this contract or with any such rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further County contracts.
- E. The contractor will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Board of County Commissioners of the County of Durham, North Carolina so that such provisions will be binding such subcontractor or vendor.

A-9. MINORITY and WOMEN BUSINESS ENTERPRISES:

- A. Bidders are required to submit information about participating M/WBEs with their bid. Each bidder shall identify on its bid the minority businesses that it will use on the project and an affidavit listing the good faith efforts it has made pursuant to N.C. Gen. Stat. § 143-128.2(f). The information must include the name and address of each M/WBE, a description of the work to be performed by each, and the dollar value of the work to be performed by each. Any bidder who does not achieve the indicated M/WBE participation goal stated above is required to provide the aforementioned documentation demonstrating that good faith efforts were made in an attempt to meet the established goal. AFFIDAVITS A through D and APPENDIX E, are provided to record this information and must be completed and enclosed with your bid. Any bid which does not include M/WBE information and documentation may be considered non-responsive. The County's Minority and Women Business Enterprise Ordinance may be obtained from the Durham County website at <http://www.dconc.gov> or by contacting the Durham County Purchasing Division.
- B. The apparent lowest responsible, responsive bidder, within three (3) business days, shall also provide either (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal or (2) documentation of its good faith effort that was identified in the bid to meet the goal (Affidavit D), including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract. **Failure to file the required affidavit or supporting documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.**
- C. M/WBE: A business which is at least 51% owned and controlled by minority group members or a woman. A M/WBE is bona fide only if the minority group or female ownership interests are real and continuing and not created solely to meet the M/WBE requirement. In addition, the M/WBE must itself perform satisfactory work or service or provide supplies under the contract and not act as a conduit. The contractual relationship must be bona fide.

- D. Owned and controlled: (1) A sole proprietorship legitimately owned by an individual who is a minority group member or female; (2) a partnership or joint venture controlled by minorities and/or females; (3) a corporation or other entities controlled by minorities or females, and in which at least 51% of the voting interests and 51% of the beneficial ownership interests are legitimately held by minorities and/or females. These persons must control the management and operations of the business on a day-to-day basis.
- E. A person who is a citizen or lawful permanent resident of the United States and who is:
- a. "Black American"; a person having origins in any of the Black racial groups of Africa;
 - b. "Hispanic American"; a person of Spanish culture with origins in Mexico, Central or South America, or the Caribbean, regardless of race;
 - c. "Native American"; a person who is a member or is eligible to be a member of a federally recognized Indian tribe. A federally recognized Indian tribe means an Indian tribe, or band, nation, rancho, pueblo, colony, or other organized group or community, including any Alaska native village, which is recognized by the Secretary of the Interior on October 1, 1985 as having special rights and is recognized as eligible for service provided by the United States to Indians because of their status as Indians, and any tribe that has a pending application for federal recognition on October 1, 1985, as having special rights and is recognized as eligible for services provided by the United States to Indians because of their status as Indians, and any tribe that has a pending application for Federal recognition on October 1, 1985.
- F. During the construction of a project, if it becomes necessary to replace an M/WBE subcontractor, the prime contractor shall advise the owner. No M/WBE subcontractor may be replaced with a different subcontractor except (1) if the subcontractor's bid is later determined by the contractor to be nonresponsible or nonresponsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work or (2) with the approval of the Board for good cause.
- Good faith efforts as set forth in N.C. Gen. State. § 143-131(b) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the Board or its designee of its good faith efforts pursuant to N.C. Gen. State. § 143-131(b).
- G. If during the construction of a project additional subcontracting opportunities become available, the prime contractor shall make a good faith effort to solicit subbids from M/WBEs.
- H. Durham Public Schools periodically conducts Construction Information Meetings to engage the business community about current and future project opportunities. Table 1 attached to this Section 00200 includes the list of participants of the most recent Construction Information Meeting. Many of these firms are M/WBE qualified and should be considered as viable participants in the bidding process. Durham Public Schools provides this list as information without endorsing the qualifications or capabilities of these firms or individuals. Bidders are encouraged to contact these

firms and individuals. Bidders are expected to independently evaluate applicability of M/WBE qualifications to the Work described herein and are encouraged to also utilize other reputable resources for M/WBE identification.

A-10. SITE CONDITIONS AND CONDITIONS OF THE WORK:

- A. Each bidder must acquaint himself thoroughly as to the character and nature of the work to be done. Each bidder furthermore must make a careful examination of the site of the work and inform himself fully as to the difficulties to be encountered in the performance of the work, the facilities for delivering, storing and placing materials and equipment, and other conditions relating to construction and labor.
- B. No plea of ignorance of conditions that exist or may hereafter exist on the site of the work, or difficulties that may be encountered in the execution of the work, as a result of failure to make necessary investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the successful Bidder to fulfill in every detail all the requirements of the Contract Documents and to complete the work or the consideration set forth therein, or as a basis for any claim whatsoever.
- C. Insofar as possible, the Successful Bidder, in carrying out his work, must employ such methods or means as will not cause interruption of or interference with the work of the Owner or any separate contractor.

A-11. BIDDER'S QUESTIONS, ADDENDA AND INTERPRETATIONS:

- A. Bidders and Sub-bidders shall promptly notify the Design Consultant of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding and Contract Documents or of the site and local conditions. No interpretation of the meaning of the drawings, specifications or other contract documents will be made to any Bidder orally.
- B. Every request for such interpretation should be in writing addressed to the Design Consultant with a copy forwarded to the Owner.
- C. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the Bidding Documents which, if issued, will be transmitted to all prospective Bidders (at the respective addresses furnished for such purposes) not later than three calendar days prior to the date fixed for the opening of bids. Neither the Design Consultant nor the Owner will be responsible for any other explanations or interpretations of the proposed documents. Failure of any Bidder to receive any such addendum or interpretation shall not relieve any bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.
- D. Each Bidder shall ascertain prior to submitting his bid that he has received all Addenda issued, and he shall acknowledge receipt and inclusion in his proposal of all Addenda.

A-12. SECURITY FOR FAITHFUL PERFORMANCE:

All bidders shall include in their bid the costs of a Performance Bond and a Labor and Material Payment Bond. The cost of bonds covering the base bid work is to be carried in the base bid only. The cost of bonds covering any alternate scopes of work is to be included within each individual alternate bid. The successful bidder shall furnish a Performance Bond in an amount equal to one hundred percent (100%) of the Contract Sum as security for the faithful performance of this Contract and also a Labor and Material Payment Bond in an amount not less than one hundred percent (100%) of the Contract Sum, as security for the payment of all persons performing labor and furnishing materials under this Contract. The successful bidder shall provide a Performance Bond and a Labor and Material Payment Bond using the forms attached as Exhibits A and B. The Performance Bond and the Labor and Material Payment Bond shall be delivered to the Owner not later than the date of execution of the Contract.

A-13. TIME FOR COMPLETION AND LIQUIDATED DAMAGES FOR NON-COMPLETION:

The Substantial Completion date will be September 16, 2022, and Final Completion to be October 14, 2022. In the event of delay in Substantial or Final completion, the Contractor shall pay liquidated damages to DPS in the amount of Two Hundred Fifty (\$250.00) per day.

A-14. LOCATION OF WORK:

The site of the proposed work is on Owner owned property, public streets, easements and/or other right-of-ways, as shown on the drawings.

A-15. LIABILITY INSURANCE AND WORKMEN'S COMPENSATION:

The Successful Bidder will be required to carry public liability and workmen's compensation and other insurance in the amounts and under the terms stipulated under the General Conditions.

A-16. BIDDERS REFERRED TO LAWS:

- A. The attention of Bidders is called to the provisions of all Municipal, County and State laws, regulations, ordinances and resolutions, as well as laws, regulations, ordinance resolutions and permits relating to obstructing streets, maintaining signals, storing and handling of explosives, or affecting the Bidder, or his employees or his work hereunder in his relation to the Owner or any other person. The Bidder shall obey all such laws, regulations, ordinances, permits or resolutions controlling or limiting Contractors while engaged in the prosecution of work under this Contract.
- B. The provisions of this contract shall be interpreted in accordance with the laws of North Carolina and in accordance with the laws, ordinances, regulations, permits and resolutions of Durham County.

A-17. TAXES

All applicable Federal, State and Local Taxes shall be included in the Bidder's proposal. The successful bidder shall provide the Owner with monthly documentation of North Carolina sales taxes paid for all purchases on the project in a form acceptable to the Owner.

DPS has determined this project to be a Capital Improvement as defined by the NC General Statute § 105-164.

A-18. RIGHT TO REJECT BIDS:

The Owner expressly reserves the right to reject any or all bids, to waive any informalities or irregularities in the bids received, and to accept that bid which in its judgment, best serves the interest of the Owner.

A-19. EQUAL PRODUCTS AND SUBSTITUTIONS:

- A. Whenever possible, the Design Consultant shall specify in the plans the required performance and design characteristics for materials as required by N.C. Gen. Stat. § 133-3. When it is impossible or impractical to specify the required performance and design characteristics for materials, the Design Consultant may use a certain brand, make, manufacturer, article, device, product, material, fixture, form or type construction by name, make or catalog number to convey the general style, type, character and standard of quality of the article desired. Unless specifically stated to the contrary, all materials, supplies and articles furnished under this Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. If approval by the Design Consultant prior to bid opening is desired, the bidder shall request approval in writing at least ten (10) days prior to the bid date. The Design Consultant's approval will be in the form of an Addendum to the Specifications issued to all prospective Bidders indicating that the additional makes or brands are equivalent to those specified. Nothing in this paragraph is intended to restrict or inhibit free and open competition on school system projects.

- B. The bidder may request approval for substitutions of materials or type of construction in writing up to ten (10) days prior to the bid date. The standard for acceptance of substitutions shall be as expressed in Paragraph 4.15 of the contract General Conditions.

A-20. PREPARATION AND SUBMITTAL OF FORM OF BID:

- A. Bids shall be submitted utilizing the Form of Proposal as bound herein, or otherwise provided with the Contract Documents, and shall be complete in every respect. The total bid amount shall be entered in words and figures in the space provided. Where applicable, the unit price or lump sum items, and their extensions, shall be entered in figures in the respective columns provided for each bid item. All entries shall be typewritten or printed in ink. The signatures of all persons shall be in longhand. Any entry of amount that appears on the face of the bid to have involved an erasure, deletion, white-out and/or substitution or other such change or alteration, shall show by them the initials of the person signing the bid and the date of the change or alteration. A failure to comply with this requirement may be cause for disqualification of the bid.

- B. For Unit Price bids, in the event of any discrepancies between the unit prices and the extensions thereof or the total bid amount, the unit prices shall govern. For Lump Sum bids, in the event of a discrepancy between the bid amount in writing and that in figures, the written value shall govern.
- C. Bids shall not contain any restatement or qualifications of work to be done, and alternate bids will not be considered unless called for. No oral bids or modifications will be considered.
- D. The amount of a bid submitted by a subcontractor to the general contractor under the single prime contracting system shall not exceed the bid, if any, for the same work by that subcontractor to the Owner under the multiple prime system.
- E. Each single-prime bid shall identify the contractors selected to perform the HVAC, plumbing and electrical work and the subcontractors' respective bid prices for the work.

A-21. MODIFICATION OR WITHDRAWAL OF BID:

- A. A Bidder may withdraw his bid from consideration if such bid was based upon a mistake as provided in North Carolina General Statute 143-129.1.
- B. Prior to the time and date designated for receipt of bids, any bid submitted may be modified or withdrawn by notice to the party receiving bids at the place designated for receipt of bids. Such notice shall be in writing over the signature of the Bidder or by telegrams; if by telegram, written confirmation over the signature of the Bidder shall be mailed and postmarked on or before the date and time set for receipt of bids, and it shall be so worded as not to reveal the amount of the original bid.
- C. Withdrawn bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with this Information for Bidders.
- D. Bid security, if any is required, shall be in an amount sufficient for the bid as modified or resubmitted.

A-22. DETAILED BID BREAKDOWN:

If the Owner directs, the Bidder shall provide a detailed breakdown of his bid acceptable to the Owner. In addition to verifying accounting requirements, the breakdown may be used by the Owner to determine whether the Bidder has grossly misjudged the requirements of any area. Failure to provide the requested detailed breakdown may result in rejection of the bid proposal.

A-23. AWARD OF CONTRACT:

- A. The contract will be awarded to the lowest responsive and responsible bidder under the single prime system, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.
- B. The lowest bidder shall be determined by the aggregate amount of the unit prices set forth in the form of bid, if work is bid on a unit price basis, or the aggregate

amount of the Base Bid, plus any Alternates selected by the Owner. Single prime bids will be received and awarded according to state law.

- C. A Responsive Bidder shall mean a Bidder who has submitted a bid which conforms, in all material respects, to the Bidding Documents.
- D. A Responsible Bidder shall mean a Bidder who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance. In determining responsibility, the following criteria will be considered:
 - 1. The ability, capacity and skill of the Bidder to perform the contract or provide the service required;
 - 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the Bidder;
 - 4. The quality of performance of previous contracts or services. For example the following information will be considered:
 - a. the administrative and consultant cost overruns incurred by Owners on previous contracts with Bidder,
 - b. the Bidder's compliance record with contract general conditions on other projects,
 - c. the submittal by the bidder of excessive and/or unsubstantiated extra cost proposals and claims on other projects,
 - d. the Bidder's record for completion of the work within the Contract Time or within Contract Milestones and Bidders compliance with scheduling and coordination requirements on other projects,
 - e. the Bidder's demonstrated cooperation with the Owner or the Design Consultant and other contractors on previous contracts,
 - f. whether the work performed and materials furnished on previous contracts was in accordance with the Contract Documents;
 - 5. The previous and existing compliance by the bidder with laws and ordinances relating to contracts or services;
 - 6. The sufficiency of the financial resources and ability of the Bidder to perform the contract or provide the service;
 - 7. The quality, availability and adaptability of the goods or services to the particular use required;
 - 8. The ability of the Bidder to provide future maintenance and service for the warranty period of the contract;
 - 9. Whether the Bidder is in arrears to the Owner on debt or contract or is a defaulter on surety to the Owner;
 - 10. Whether the bidder has demonstrated a good faith effort to use M/WBEs as subcontractors;

11. Such other information as may be secured by the Owner having a bearing on the decision to award the contract, to include, but not limited to:
 - a. the ability, experience and commitment of the Bidder to properly and reasonably plan, schedule, coordinate and execute the Work,
 - b. whether the Bidder has ever been debarred from bidding or found ineligible for bidding on any other projects.
- F. The purpose of the above is to enable the Owner in its opinion, to select the lowest responsible bidder. The ability of the low Bidder to provide the required bonds will not of itself demonstrate responsibility of the Bidder.
- G. In addition to the qualifications package submitted with the bid, the Owner reserves the right to require from the Bidder: (1) submissions of additional references, within seven days of bid opening, to include a listing of previous and current projects and (2) financial statements indicating current financial status, prepared in accordance with generally accepted accounting principles, by a CPA licensed to do business in North Carolina, and (3) any other information deemed necessary in order to establish the responsiveness and responsibility of the bidder.
- H. The Owner reserves the right to defer award of this contract for a period of Sixty (60) days after the due date of bids. During this period time, the Bidder shall guarantee the prices quoted in his bid.

A-24. ADDITIONAL REQUIREMENTS:

- A. All bidders must complete the Vendor Application/Bidder Profile Form and include it with their bid package. This information will be used to create or update Durham County's electronic Bidder/Vendor files.
- B. Security of Non-public Records: Pursuant to N.C.G.S. § 132-1.7, entitled, "Sensitive Public Security Information", public records, as defined in G.S. 132-1, shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities. Therefore, all information provided, received, gathered or obtained by Bidder containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities shall be held confidential and shall be used by the Bidder only for the purpose of responding to this bid. All plans and drawings shall be returned to the Owner no later than the bid closing date. Any breach of this paragraph by the Bidder may result in Bidder being barred from being awarded any contracts with the Owner.
- C. To ensure a fair bidding process, questions and/or clarifications requested by contractors will be accepted up to **seven (7) days prior to Bid Opening**. Bidders/contractors are required to submit their questions in writing to the Program Manager, Insert Project Manager Here
- D. The following forms must be returned:
 - a. Bid Forms
 - b. Non-Collusion Affidavit

- c. Bid Bond
 - d. Power of Attorney
 - e. Vendor Application and W-9 Form
 - f. M/WBE Forms:
 - i. Identification of Minority Business Participation with contract amounts (\$),
- **AND** -
 - ii. Affidavit A – Listing of Good Faith Efforts - **OR** -
 - iii. Affidavit B – Intent to Perform Contract with Own Workforce
 - g. Statement of Qualifications
- E. Following the bid opening, the Owner will issue a Determination of Apparent Low letter to the contractor it has deemed to be the apparent low responsible, responsive bidder based on the initial bid documentation. The contractor is required to submit Affidavit C or D including all statute-required back-up information within seventy-two (72) hours of the receipt of the letter.
- F. Within 14 calendar days of the contract award, the contractor shall submit a complete list of all identified subcontractors the contractor will use on the project.
- G. **ASBESTOS-CONTAINING BUILDING MATERIALS IN SCHOOL FACILITIES:** Asbestos-containing building materials must not be disturbed if encountered during repairs, renovations, and other construction and installation activities. If disturbance of these materials cannot be reasonably avoided, no work shall begin until Durham Public School System has been notified and has issued specific instructions on the proper procedures for the activity in accordance with federal, state and local regulation. If Asbestos is identified DPS shall perform asbestos and lead based paint surveys of the affected areas of the facility.
- H.

RELATED SECTIONS:

- A. Exhibit A – Performance Bond Form (Section 00 61 13)
- B. Exhibit B – Material and Labor Payment Bond Form (Section 00 61 13)

END OF INFORMATION FOR BIDDERS

Contract: [ENTER CONTRACT TYPE]

Project: [ENTER NAME OF PROJECT HERE]
Durham Public Schools Board of Education
Durham County, NC

Bidder: _____

Date: _____

The undersigned, as bidder, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he has examined the site of the work and the contract documents relative thereto, has read all special and supplemental provisions furnished prior to the opening of bids, has satisfied himself relative to the work to be performed, and thereby proposes and agrees if this proposal is accepted, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the fabrication and delivery of the work, and other related work in full and complete accordance with the plans, specifications and contract documents, to the full and entire satisfaction of the Owner, with a definite understanding that no money will be allowed for extra work except as set forth in the General Conditions and other contract documents, on the [ENTER PROJECT NAME] in [LOCATION HERE].

Bidders are advised that a notice to proceed may be issued upon approval by the Durham Public Schools Board of Education, and in advance of the contract document.

The Bidder proposes and agrees, if this proposal is accepted, to execute a Contract within ten (10) days after notification of award, for the above work and for the below stated Compensation, in the Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope, where the basis of payment is a Stipulated Sum., for the sum of:

BASE BID:

Labor _____ Dollars (\$ _____)

Material _____ Dollars (\$ _____)

Total _____ Dollars (\$ _____)

ALTERNATES:

The Bidder proposes to perform the work indicated as alternates for the amounts entered below, which amounts shall be added to or deducted from the Base Bid as indicated in the space below. **(Bidders must enter an amount for each alternate.** If acceptance of the alternate will not change the contract amount, enter “No Change”. Insert the words “Add” or “Deduct” in the space provided before the amount.)

List of Alternates:	<u>Add/Deduct</u>	<u>Amount</u>
[Alternate #] [Description of Alternate]	_____	\$_____

BID UNIT PRICES:

UNIT PRICES TO BE SUBMITTED, ALONG WITH BID, ON FORM PROVIDED IN SECTION 00 43 22

ADDENDA:

The following addenda were received and used in computing this bid:

	Date	Initial
Addendum #1		
Addendum #2		
Addendum #3		
Addendum #4		

The Bidder further proposes and agrees hereby to commence work under this contract on a date to be specified in a written order by the Owner or Designer on or before [ENTER ANTICIPATED NOTICE TO PROCEED DATE], and shall substantially complete the work on or before [ENTER NUMBER OF CALENDAR DAYS] from the "Notice to Proceed" or the contract, whichever is dated first.

The undersigned further agrees that in the case of failure on his part to execute the said contract and the bond within ten (10) consecutive calendar days after written notice being given of the award of the contract, the certified check, cash or bid bond accompanying this bid shall be paid into the funds of the Owner's account set aside for the project, as liquidated damages for such failure; otherwise the certified check, cash or bid bond accompanying this proposal shall be returned to the undersigned. Attach certified check, cash or bid bond to this proposal.

RESPECTFULLY SUBMITTED this _____ day of _____, 200__.

(Name of firm or corporation making bid)

By: _____

Title: _____
(Owner / Partner / President / Vice President)

License No. _____

Federal ID No. _____

WITNESS: (Proprietorship / Partnership)

By: _____

ATTEST: (Corporation)

By: _____

(CORPORATE SEAL)

Title: _____
(Corporate Secretary or Asst. Secretary Only)

BID BOND FORM Section 00 43 13

KNOW ALL MEN BY THESE PRESENTS, That we,

(Bidder's Name)

_____, of _____
(Street Address) (City, State, Zip)

Hereinafter called the Principal, and

(Surety's Name)

A corporation organized and existing under the Laws of the State of _____, and authorized to transact business in the State of _____, as Surety, hereinafter called Surety, are held and firmly bound unto the _____ (Owner).

Hereinafter called Obligee, in the Penal sum of five percent (5%) of the amount bid, good and lawful money of the United States of America, for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The Condition of this Obligation is such, that, WHEREAS the Principal has submitted a proposal to the Obligee on a contract for the construction

of _____
(Contract Name and Number)

NOW THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such construction for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void; otherwise to remain in full force and effect.

BID BOND FORM Section 00 43 13

In witness whereof, we have hereunto set our signatures and seal this _____ day of _____, 20_____, all pursuant to due authorization.

Principal (Seal)

By
Surety

By
Attorney-in-Fact in accordance with the attached Power of Attorney

STATE OF _____)

ss:

COUNTY OF _____)

I, _____, a Notary Public in and for the State and County aforesaid, do hereby certify that _____, and _____, whose names are signed to the foregoing bond, this day personally appeared before me in my State and County aforesaid and acknowledged the same.

Given under my hand seal this _____ day of _____, 19_____.

Notary Public (Seal)

My Commission expires:

BID PACKET REQUIREMENTS

Bid envelopes will have the following information on the outside of the envelope:

Bidder's name
Bidder's NC License Number
Bidder's Address

Proposal for Construction Contract for
Insert Project Name here
DPS Project #: Insert Project Number here

Addressed to: Durham Public Schools
ATTN: Purchasing
511 Cleveland St.
Durham, NC 27702

The following completed documents will be required in your base bid package:

1. Form of Proposal – Single Prime Contract
 - a. NOTE: Part 5, Addenda Acknowledgment **must** be filled out with the correct number of Addenda's Issued before bid date.
2. Non-Collusion Affidavit
3. Bid Bond
4. Bid Bond Power of Attorney
5. Vendor Application and W-9 Form
6. M/WBE Forms
 - a. Identification of Minority Business Participation – **AND** –
 - b. Affidavit A – Listing of Good Faith Efforts – **OR** –
 - c. Affidavit B – Intent to Perform Contract with Own Workforce
7. Statement of Qualifications

The omission of any of the above forms will constitute the bid as invalid and the contractors bid amount will not be read.

Tax Clarification, Reference "Information For Bidders" Section A-17, "All applicable Federal, State and Local Taxes shall be included in the Bidder's proposal".

Affidavit C or D will be submitted only by the apparent lowest responsible, responsive bidder within seventy-two (72) hours after the bid closing date.

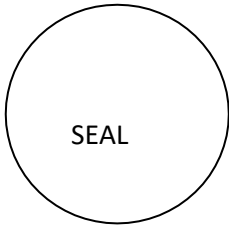
AFFIDAVIT OF E-VERIFICATON

The undersigned hereby certifies on behalf of _____
("Bidder") that Bidder and its proposed Subcontractors for this project are in compliance with
Article 2 of Chapter 64 of the North Carolina General Statutes, except for those with less than
twenty five (25) employees that are exempt from the E-Verification requirements.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

NON-COLLUSION AFFIDAVIT

State of North Carolina
County of Durham

I _____, being first duly sworn, deposes and says that:

1. He/She is the _____ of _____,
the offeror that has submitted the attached proposal;
2. He / She is fully informed respecting the preparation and contents of the attached proposal
and of all pertinent circumstances respecting such proposal;
3. Such proposal is genuine and is not a **collusive** or **sham** proposal;
4. Neither the said offeror nor any of its officers, partners, owners agents, representatives,
employees or parties of interest, including this affidavit, has in any way colluded,
conspired, connived or agreed, directly or indirectly, with any other offeror, firm or person
to submit a **collusive** or **sham** proposal in connection with the contract for which the
attached proposal has been submitted or to refrain from proposing in connection with
such contract, or has in any manner, directly or indirectly, sought by agreement or
collusion or communication or conference with any other offeror, firm or person to fix the
price or prices in the attached proposal or of any other offeror, or to fix any overhead,
profit or cost element of the proposal price of any other offeror or to secure through
collusion, conspiracy, connivance or unlawful agreement any advantage against the
County of Durham or any person interested in the proposed contract; and
5. The price or prices quoted in the attached proposal are fair and proper and are not tainted
by any collusion, conspiracy, connivance or unlawful agreement on the part of the offeror
or any of its agents, representatives, owners, employees, or parties in interest, including
this affidavit.

Signature of offeror

Date

Subscribed and sworn before me,
this _____ day of _____, 20 _____

(SEAL)

TITLE

Notary Public
My Commission Expires _____

**DURHAM PUBLIC SCHOOLS BOARD OF EDUCATION
POLICY NUMBER 6070:**

Minority Business Enterprise Participation in Construction and Purchase Contracts

It is the policy of the Board to provide minorities equal opportunity to participate in all aspects of the school system's contracting and purchasing programs, including but not limited to participation in procurement contracts for materials, supplies and equipment, and contracts for the construction, renovation or repair of school facilities and equipment.

It is further the policy of the Board to prohibit discrimination against any person or business enterprise on the basis of race, color, ethnic origin, sex, handicapping condition, or religion and to conduct its contracting and purchasing programs so as to prevent such discrimination.

It is the policy of the Board in concert with other local, state and federal agencies and with the assistance of minority groups and agencies, actively to seek and identify qualified minority business enterprises (MBEs) and to offer them the opportunity to participate, and to encourage them to participate, in the school system's contracting and purchasing programs. Under this policy, the Board adopts the definition of MBEs contained in N.C. Gen. Stat. 143-128.2.

It is not the policy of this Board to provide information or other opportunities to minority business enterprises that will not be available to all other business enterprises. It is the intent of this policy to establish procedures designed to assure MBEs access to information and opportunities available to other business enterprises. It is not the intent of this policy to establish procedures that will increase the cost of the school system's construction and purchasing programs. It is the intent of this policy to widen opportunities for participation, to increase competition, and to reduce costs.

The Board will award public building contracts without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in N.C. Gen. Stat. 168A-3. The Board will award contracts to the lowest responsible, responsive bid.

Durham Public Schools is following Chapter 8 Article V of the Durham County Code of Ordinances for M/WBE Participation.

These projects shall be bid strictly in accordance with N.C. Gen. Stat. § 143-128 and -129. The school system shall require bidders on school construction and renovation projects to provide documentation demonstrating that they have met the verifiable goal for participation by minority business or that they have made good faith efforts to do so as specified in the accompanying regulations and in N.C. Gen. Stat. § 143-128.2. Data generated pursuant to this section shall be reported to the Department of Administration, Office of Historically Underutilized Business, as required by N.C. Gen. Stat. § 143-128.3(a).

ARTICLE V. - MINORITY AND WOMEN BUSINESS ENTERPRISES (as of February 18, 2020)

Sec. 8-131. - Purpose.

- (a) The county has commissioned a disparity study, which determined that there is a strong basis in evidence to conclude that minority and women-owned firms continue to suffer from both discrimination and the present effects of past discrimination in the Durham marketplace, which have a direct affect on the procurement processes of the County of Durham. The study findings conclude that the county should utilize race-neutral remedies to address the identified discriminatory barriers faced by minority and women-owned businesses and further concludes that, where appropriate, the county should take action to ensure that minority and women-owned firms are not discriminated against.
- (b) This article establishes a plan of action to help ensure that the county's purchasing practices provide for participation by, and equal opportunities for businesses owned and controlled by minorities and women.
- (c) This article is enacted pursuant to authority provided by law, including G.S. 143-128, 153A-12, 153A-13, 153A-121, and 153A-134.

(Ord. of 1-14-08(1), § 1)

Sec. 8-132. - Policy statement.

It is the policy of the county to provide minorities and women equal opportunity to participate in all aspects of the county's contracting programs, including, but not limited to, construction projects, and/or materials and service contracts, consistent with law. It is further the policy of the county to prohibit discrimination against any business in pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, disability, or veteran's status. It is further the policy of the county to conduct its contracting programs so as to prevent such discrimination, correct present discrimination and to resolve claims of such discrimination.

(Ord. of 1-14-08(1), § 1)

Sec. 8-133. - Definitions.

Unless the context requires otherwise, the following words as used in this article have the indicated meanings:

To *bid* means to offer to furnish goods or services. Bids are the means by which the offer is communicated and includes, but is not limited to, formal and informal bids, proposals, and responses to a request for proposals. A bid need not be in writing, unless otherwise required.

Bidder means a business which has bid to provide goods or services to the county.

Business includes businesses regardless of legal status, including persons, corporations, partnerships, joint stock companies, joint ventures and any other private legal entity.

Contractor means a business which has a contract with the county to provide goods or services to the county.

County means County of Durham, North Carolina.

County manager means the Durham County Manager or the county manager's designee.

Department head means the Durham County Department Head or the designee of the department head, such as the project manager.

Director means the Durham County Purchasing Director or the designee of the director.

Goals means M/WBE goals expressed as a percentage of the total dollar volume for participation of minorities and women on county contracts.

Goods mean apparatus, supplies, materials and equipment.

Historically underutilized business means a business which meets the conditions specified in G.S. 143-128.4(a).

Joint venture means an association of two or more businesses to carry out a single enterprise for profit, for which purpose they combine their property, capital, efforts, skills, or knowledge.

MBE means an M/WBE which is a minority business enterprise, which includes minority or women business enterprise.

M/WBE means a business which holds a current certification as a minority or women business enterprise.

Minority means an individual who is a citizen or lawful permanent resident of the United States and who is:

- (1) *African American*. A person having origins in any of the black racial groups of Africa.
- (2) *Asian American*. A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific Islands.
- (3) *Hispanic American*. A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.
- (4) *Native American*. A person having origins in any of the original Indian peoples of North America.

Other professional means professional services other than architecture, engineering, or professional services performed for the human services agencies of the county.

Services mean nonconstruction services.

Subcontractor means any business contracting with a contractor to provide goods and/or services in fulfillment of the contractor's obligations arising from a contract with the county.

WBE means an M/WBE which is a woman-owned business enterprise.

(Ord. of 1-14-08(1), § 1)

Sec. 8-134. - Administration.

- (a) The county manager, with the advice of the director, shall implement this article. The county manager is hereby authorized to take all usual and legal administrative actions necessary to implement this article.
- (b) This article applies to all bids and contracts for the purchase of goods or services which the county enters into after the adoption hereof.
- (c) The county manager and the director shall consider and implement special programs to assist local M/WBEs including, but not limited to, bonding assistance and technical assistance.

(Ord. of 1-14-08(1), § 1)

Sec. 8-135. - Encouragement of M/WBE contracting.

- (a) *Race-neutral steps*. The county shall take the following race-neutral steps to attempt to eliminate discrimination which has been shown to exist.

- (1) *Creation and identification of separate work.* In the preparation of bid request packages and in projects in which the county engages an independent architect or engineer, the director and department head shall make reasonable attempts to divide the work requirements so that there are good opportunities for small companies to perform as subcontractors. This may be accomplished, for example, by the director and department head working together to identify contracting strategies which ensure that opportunities are created for smaller firms.
 - (2) *Advertising for bids.* Whenever the county manager finds it to be reasonably practicable, a period of at least 30 days will be given between advertising and receiving bids so that small companies may have adequate time to obtain bonding, licensing, or any other technical assistance. Further, such advertising shall be made through the majority and minority media as well as through majority and minority trade and professional organizations and publications.
 - (3) *Pre-bid conference.* The director shall be present at each pre-bid conference. The director shall provide potential subcontractors with a list of contractors who attend the pre-bid and pre-proposal meetings.
 - (4) *Bonding, etc.* The county manager shall, where applicable and feasible, make efforts to assist companies in obtaining bonding. Bonding and other technical assistance shall be coordinated with the United States Small Business Administration, other governmental entities and, where feasible, financial institutions.
 - (5) *[System development.]* The director shall develop a system to make available information on current informal bids via internet access or electronic mail.
 - (6) *Other requirements.* The director shall insert, in contracts to be executed by the county, provisions requiring the other parties to adhere to the requirements of this article.
- (b) *Race-conscious steps.* The county shall take the following race-conscious steps to attempt to eliminate discrimination which has been shown to exist:
- (1) *Maintaining M/WBE availability data bank.* The county shall utilize the statewide data bank of historically underutilized businesses, established by the North Carolina Department of Administration HUB Office. This information is to be made available to all prospective contractors and shall be used by the county in notifying M/WBEs of opportunities to contract with the county. The director shall utilize electronic technology to the greatest extent practicable to maintain information on certified historically underutilized businesses which seek to do business with the county. The information should include at least the following: name of business, address, telephone number, services or products provided, capabilities of the business, line of work performed by the business, licensing and number of persons employed by ethnicity and gender.
 - (2) *Outreach and assistance to subcontractors.* To ensure that opportunities to participate on county contracts are available to the widest feasible universe of interested, available and qualified businesses, the county shall develop and implement a written comprehensive outreach program aimed at increasing business participation in the county's contracting and procurement process. This program may include, without limitation, any or all of the following:
 - a. The county may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals, in print and in electronic media (including publications or electronic media targeted to MWBEs and small businesses) information describing the minority business opportunity program and the functions of the county.
 - b. The county may establish a procedure to engage in continuous recruitment and outreach efforts directed at business assistance organizations to increase the pool of businesses available to do business with the county. The county may identify suppliers through business development organizations and participation at various trade shows, supplier diversity groups and work with various national and local supplier development councils and organizations.

- c. The county may disseminate at community events, trade shows, and other appropriate business functions, and publish at regular intervals, in print and in electronic media, information identifying ongoing contracting opportunities with the county, and providing contact information by which businesses may obtain additional information from the county. The county will provide this information in languages other than English, where appropriate. To the extent feasible, the county may enter into arrangements to share data regarding upcoming county projects, and subcontracting opportunities on the projects, with other businesses and agencies or jurisdictions in the region.
 - d. The county may assist businesses in submitting bids for eligible projects by providing individualized counseling, and/or by conducting seminars regarding the process for submitting a bid on a county project. The county may sponsor "How to do business with the County of Durham" seminars and invite a wide array of businesses.
 - e. The county may actively encourage businesses to attend the pre-bid conferences, providing face-to-face and one-on-one meeting opportunities with employees of the county within the divisions and departments that are involved with the contracting and procurement process. The county may establish and implement training and awareness programs with the employees of the county's user departments to educate them with regard to increasing utilization of MWBEs.
- (c) *Bidders' responsibilities.* Bidders shall take affirmative steps prior to submission of any bid to encourage participation in projects by M/WBEs where discrimination has been shown to currently exist. Such steps shall include:
- (1) Segmenting total work requirements to permit M/WBE participation.
 - (2) Assuring that M/WBEs are solicited whenever there are possible sources of goods or services. This may include:
 - a. Sending letters or making other personal contacts with M/WBEs (e.g. those whose names appear on the historically underutilized businesses listed in the North Carolina State-Wide Data Bank). M/WBEs are to be contacted within a reasonable time prior to bid submission or the closing date of receipt of initial offers. Those letters or other contacts shall communicate the following:
 - 1. A specific and accurate description of the work to be subcontracted;
 - 2. Information on how and where to obtain a copy of this article and specification or other detailed price quotation;
 - 3. The date the quotation is due to the bidder for preparation of the bid; and
 - 4. The name, address and phone number of the person in the bidder's business whom the prospective M/WBE subcontractor should contact for additional information.
 - b. Sending letters or making other personal contacts, as referenced in subsection 8-135(b)(2)a., with local state, federal, and private agencies and M/WBE associations relevant to the project. Such contacts should provide the same information as provided in the direct contact with M/WBEs.
 - c. Where feasible, establishing delivery schedules which will encourage participation by M/WBEs.
 - d. In determining the availability of M/WBEs, the relevant area shall be the same as that used to solicit bidders.
 - (3) Attending the pre-bid conference, if such a conference is held.
 - (4) Advertising in minority/female trade publications and minority/female-owned media no less than 20 days from the date that bids are due. If 20 days are not available, advertising must be sought as soon as the bidder learns of the solicitation of bids. The publication should be one which

reasonably covers the area used to solicit the bidder. The advertisement should be for specific subcontracts described in reasonable detail.

- (5) The advertised subcontracts should equal the M/WBE goal specified in the bid.
 - (6) Assisting M/WBEs in finding sources of bonding and insurance required by the bidder.
 - (7) Not imposing requirements regarding surety bonds that are more onerous for M/WBEs than for non-M/WBEs similarly situated.
 - (8) Making all reasonable efforts to provide technical assistance to assist in the upgrading of M/WBE capabilities.
 - (9) Making bulk purchases whenever reasonably practicable in order to reduce the capital requirements of M/WBE subcontractors.
 - (10) Reporting all businesses which it has reasonable grounds to believe have fraudulently claimed M/WBE status in order to unjustly benefit from the requirements of this article.
 - (11) To demonstrate compliance with the responsibilities as set forth herein, bidders shall keep detailed records of all correspondence with M/WBEs and the responses thereto, logs of all telephone calls made and received regarding the project and copies of advertisements in minority and women-owned publications and media.
- (d) *Responsibilities of bidders and contractors.* Bidders and contractors shall:
- (1) Furnish regular reports and information, in a form determined by the director (Appendix E, M/WBE Documentation for Contract Payments) sufficient to allow the county and the director to determine that the bidders and contractors are meeting the requirements of this article. This information must be submitted by the contractor to the county department head or designee, with each pay request.
 - (2) Cooperate in good faith with the county to attempt to resolve any complaints of discrimination made against bidders and contractors.
 - (3) After the county manager has identified a bidder as the apparent lowest responsible bidder, whether as a result of a sealed bid process or otherwise, and that bidder proposes to replace a subcontractor, to increase the quantity of subcontracted work, or to change the allocation of work among subcontractors, the bidder must provide M/WBEs an equal opportunity for such work. Substitutions of subcontractors in these circumstances, both prior to and after the awarding of a contract, are subject to the written approval by the county manager.
 - (4) When a contractor proposes to replace subcontractors, to increase the quantity of subcontracted work, or to change the allocation of work among subcontractors, the contractor must provide M/WBEs an equal opportunity for such work. Substitutions of subcontractors in these circumstances are subject to the written approval of the county manager.
- (e) *Obligations of M/WBEs.* M/WBEs and businesses that qualify to be certified as M/WBEs are responsible for promoting themselves and taking the initiative to obtain contracts and subcontracts, and for encouraging joint venture arrangements. M/WBE's interested in special assistance shall take the following steps:
- (1) Submit information to the contract recipients to identify status as an MBE or WBE.
 - (2) Become certified as an MBE or WBE under the North Carolina Department of Administration, Historically Underutilized Business (HUB) certification program.
 - (3) Contact federal, state, and local M/WBE liaison offices to obtain information on potential jobs.
 - (4) Provide capability statements to state agencies, the director, county engineer, and prospective bidders stating types of work performed by the business, size of job that the business could handle, bonding information and any special skills.

- (5) Make every effort to establish contacts and relationships with prospective bidders for potential future business, including attending pre-bid conferences and subscribing to industry and trade journals.
- (6) Contact the county's engineering department to obtain information on planned projects. Visit the Durham County website periodically for posting of bid opportunities.
- (7) Respond promptly to solicitation requests.
- (8) Attend seminars, classes, and workshops designed to enhance business skills and the ability to build capacity.

(Ord. of 1-14-08(1), § 1)

Sec. 8-136. - Goals.

- (a) In determining the value of contracts awarded to MBEs and WBEs as required by this section, contracts and subcontracts are deemed awarded if the bidder lists them in the paperwork required by the director as part of the county's bid process. Durham County hereby establishes the following goals for the expenditure of funds with M/WBEs:

Ethnicity/Race/Gender Industry	African American	Asian American	Hispanic American	Native American	Women-Owned
Construction	2.61%	N/A	N/A	N/A	3.98%
Construction subcontracting	14.67%	N/A	2.14%	N/A	10.76%
Professional services (including architecture and engineering)	N/A	N/A	N/A	N/A	N/A
Other professional services	7.20%	N/A	N/A	N/A	3.55%
Goods/supplies	N/A	N/A	N/A	N/A	12.05%

- (b) The county manager may waive the required goals subject to the availability of qualified firms. The county reserves the right to set goals on a project-by-project basis depending on the availability of qualified firms.

(Ord. of 1-14-08(1), § 1)

Sec. 8-137. - Certification of M/WBEs.

- (a) Minority businesses seeking to be counted toward Durham County's minority business participation goals shall be certified or designated as minority business by the North Carolina Department of Administration HUB Office, or by another certifying agency of the State of North Carolina or local unit of government.

- (b) As a result of North Carolina's Legislative Session Law 2007, Senate Bill 320, a new requirement has been created for the state department of administration to develop and administer a state-wide uniform program for certification of Historically Underutilized Businesses (HUBs) for use by state and local agencies, and to create and maintain a state-wide database of certified HUBs. This requirement for all state and local agencies to use HUB's listed in the database created in accordance with the new law becomes effective July 1, 2009.
- (c) Pursuant to the provisions of G.S. Article 3, § 143-128.4 shall read as follows:
 - (1) *G.S. 143-128.4. Historically underutilized business defined; state-wide uniform certification.* As used in this chapter, the term "historically underutilized business" means a business that meets all of the following conditions:
 - a. At least 51 percent of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (d) of this section, or in the case of a corporation, at least 51 percent of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (d) of this section.
 - b. The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (d) of this section.
 - (2) As used in this chapter, the term "minority business" means a historically underutilized business.
- (d) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (c) of this section by one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:
 - (1) *Black.* A person having origins in any of the black racial groups of Africa.
 - (2) *Hispanic.* A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.
 - (3) *Asian American.* A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific Islands.
 - (4) *American Indian.* A person having origins in any of the original Indian peoples of North America.
 - (5) *Female.*
 - (6) *Disabled.* A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.
 - (7) *Disadvantaged.* A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637.

(Ord. of 1-14-08(1), § 1)

Sec. 8-138. - Contractor selection procedures.

- (a) *Contractor and subcontractor selection.* The county may award the contract and/or reject bids in accordance with law, taking into consideration M/WBE requirements. In writing specifications and requirements for bidding, the county manger may specify what M/WBE and employment information and documents must be submitted with the bid, what M/WBE and employment information must be submitted afterwards and on what schedule. The employment information may include ethnicity, gender, and occupation of employees. If the county manager determines that a bid was made with good faith efforts to comply with this article, the county commissioners and the county manager shall consider that bid to have complied with this chapter in the absence of a bid which has met the M/WBE requirements, including having obtained the goals set forth pursuant to section 8-136.

- (b) *Number of bids.* To the extent allowed by law, for purposes of counting the minimum number of bids required under G.S. 143-132, bids made with good faith efforts to comply with this article shall not be considered to be nonresponsive for failing to meet the M/WBE requirements.
- (c) *Calculation of MWBE participation.* The degree of participation by minority-majority joint ventures, M/WBE contractors and subcontractors in contracts awarded shall be calculated as follows:
- (1) The total dollar value of the contract awarded to the M/WBE is counted as participation.
 - (2) The total dollar value of a contract awarded to an M/WBE owned and controlled by both minority males and nonminority females is counted as participation for minorities and women respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of an M/WBE owned and controlled by minority women is counted as either the minorities' or women's participation, but not both. The M/WBE may choose which category the credit will apply.
 - (3) The county may count as its M/WBE participation a portion of the total dollar value of a contract with a joint venture eligible under the standards of this article equal to the percentage of the ownership and control of the M/WBE partner in the joint venture.
 - (4) The county may count as M/WBE participation only expenditures to an M/WBE that performs a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and for carrying out its responsibilities by actually performing, managing, and/or supervising the work involved. The qualified owners themselves must be actively involved in carrying out those responsibilities. To determine whether an M/WBE is performing a commercially useful function, the county shall take into account the amount of work subcontracted, industry practices, the adequacy of the resources of the business for the work, the qualification of the owners.
 - (5) Consistent with normal industry practices, an M/WBE may enter into subcontracts. If an M/WBE bidder or contractor subcontracts a significantly greater portion of the work of the contract than would be expected based on normal industry practices, the M/WBE shall be presumed not to be performing a commercially useful function. The M/WBE may present evidence to rebut this presumption to the county.
- (d) *Documenting M/WBE participation.* Bidders shall be required to submit, at a time and in a form specified by the director, the following information on each M/WBE related subcontract:
- (1) A description of the subcontractors for significant goods and services to be used to perform the prime contract, and the name, address, contact person and telephone number of each of those subcontracts;
 - (2) The dollar amount of participation of each M/WBE;
 - (3) A statement of intent from each prospective M/WBE subcontractor identified in subsection (d)(1) above, to the effect that it intends to subcontract as described;
 - (4) If the bid does not indicate that the bidder will achieve the applicable M/WBE goals, the bidder shall submit sworn statements, with appropriate documentation, showing that it made good faith efforts to engage M/WBEs; and
 - (5) M/WBE's must be certified by the North Carolina Department of Administration HUB Office, or by another certifying agency of the State of North Carolina or local unit of government prior to submittal of a bid in order to receive credit towards the achievement of the M/WBE goals.
- (e) *Good faith efforts.* It is the responsibility of bidders and contractors to make good faith efforts. Any act or omission by the county shall not relieve them of this responsibility. The county manager shall apply the following criteria, with due consideration of the quality, quantity, intensity and timeliness of efforts of bidders and contracts, in determining good faith efforts to engage M/WBEs, along with criteria that the county manager deems proper:
- (1) Attendance at the pre-bid conference, if held;

- (2) Whether and when the bidder or contractor provided written notice to all M/WBEs listed in the North Carolina Department of Administration HUB Office databank that performs the type of work to subcontract and advising the M/WBEs:
 - a. Of the specific work the bidder or contractor intends to subcontract;
 - b. That their interest in the contract is being solicited; and
 - c. How to obtain and inspect the applicable plans, specifications and descriptions of the item to be purchased.
- (3) Whether the bidder or contractor selected feasible portions of work to be performed by M/WBEs, including, where appropriate, breaking contracts or combining elements of work into feasible units, and considering the ability of the bidder or contractor to perform the work with its work force;
- (4) Whether the bidder or contractor considered all bids received from M/WBEs and for those bids not accepted, the bidder or contractor shall provide an explanation of why the M/WBE will not be used during the course of the contract;
- (5) Whether the bidder or contractor provided interested M/WBEs assistance in reviewing applicable plans and specification and descriptions of items to be purchased;
- (6) Whether the bidder or contractor advertised in general circulation, trade association and minority/women focus media concerning the subcontracting opportunities;
- (7) Whether the bidder or contractor provided written notice to a reasonable number of specific M/WBEs that their interest in the contract was being solicited, in sufficient time to allow them to participate effectively;
- (8) Whether the bidder or contractor followed up initial solicitation of interest by contacting M/WBEs to determine with certainty whether the M/WBEs were interested;
- (9) Whether the bidder or contractor provided interested M/WBEs with adequate information about the plans and specification and requirements of the contract;
- (10) Whether the bidder or contractor negotiated in good faith with interested M/WBEs, not rejecting M/WBEs as unqualified without sound reason based on a thorough investigation of their capabilities;
- (11) Whether the bidder or contractor made efforts to assist interested M/WBEs in obtaining bonding, lines of credit or insurance if such assistance was necessary;
- (12) Whether the bidder or contractor effectively used the services of available minority/women community organizations; minority/women contractor groups; local, state and federal minority/women business assistance offices; and other organizations which provided assistance in recruitment and placement of M/WBEs;
- (13) Whether the bidder or contractor has utilized M/WBE subcontractors on other county contractors; and
- (14) Whether the bidder or contractor's efforts were merely pro forma, and given all relevant circumstances, could not reasonably be expected to provide sufficient M/WBE participation to meet the goals.

(Ord. of 1-14-08(1), § 1)

Sec. 8-139. - Enforcement and monitoring.

(a) *Contract compliance.*

- (1) The county manager and the director shall be responsible for monitoring all contracts for compliance with M/WBE requirements. They may take the following steps to determine such compliance:
 - a. Conducting site visits;
 - b. Reviewing all documents submitted for payment by the contractor to determine whether payments are being made to M/WBEs as indicated in the contract and bid;
 - c. Reviewing certification.
 - (2) The contractor shall submit such information to the director, which the director designates as reasonably necessary to determine whether the contractor complies with the M/WBE requirements of the contract.
 - (3) If the county manager, with the advice of the director, notifies the contractor of the county manager's finding that there are deficiencies in the performance of the contractor insofar as compliance with this article, the contractor shall have 15 days, or if 15 days do not remain in the contract, a reasonable lesser amount of time to cure the deficiencies. If a contractor materially breaches the M/WBE requirements of the contract, and has not cured the breach within the time allowed for the purpose, the county commissioners shall have the right to take all lawful action in response thereto, including, but not limited to, terminating the contract, imposing liquated damages, and/or considering the contractor to be nonresponsible when awarding future county contractors.
- (b) *Sanctions.* All contractors, after being awarded a contract, are legally bound to observe their terms of the contract, including all M/WBE provisions. The county commissioners have the authority to impose penalties for noncompliance with the provisions of this article including, suspension of contract eligibility, liquated damages, and termination of the contract.
- (c) *Maintaining M/WBE participation.* Contractors must maintain the M/WBE percentages indicated at the time of contract award throughout the term of the contract. This includes any increase of the contract by amendment of change order. For contracts in the amount provided by G.S. 143-129, or any local act pertaining thereto where there are certified minority/women business enterprise firms available for subcontracting, failure by the contractor to comply with pre-bid requirements under section 8-138, or to adequately document good faith efforts to subcontract with M/WBE firms, or to purchase significant material supplies from M/WBE firms, shall subject the bid to rejection as being nonresponsive.
- (d) *Monitoring the program.* The county manager, with input of the director, shall be responsible for monitoring the implementation of this article and reporting to the county commissioners annually on the efficiency of this article. To the greatest extent possible the county shall utilize computerized electronic systems for monitoring compliance and providing reports as required under this article. Toward that end, the county manger shall have compiled:
- (1) Reports from the information submitted by successful bidders outlining the total dollars spent and the amount spent for minority contractors;
 - (2) A fiscal report on all contracts awarded;
 - (3) A comparison of the percentage of M/WBEs and major contractors doing business with the county;
 - (4) A report on the percentage of M/WBEs located in the county;
 - (5) Reports describing the general categories of contracts awarded M/WBEs;
 - (6) Reports showing the percentage of dollar values of all contracts awarded during the quarter which were awarded to M/WBEs;
 - (7) Separate records relating to MBEs and WBEs; and
 - (8) Other documentation necessary to substantiate disparity.

(Ord. of 1-14-08(1), § 1)

Sec. 8-140. - Contracts awarded by the county manager.

- (a) The county manager may determine that all or specified portions of the following parts of this article shall not apply to contracts that are to be awarded by the county manager:

Section:

8-135(a)(2)	Advertising for bids
8-135(c)	Bidders' responsibilities
8-138(d)	Documenting M/WBE participation
8-138(e)	Good faith efforts

- (b) The determination may be made for classes of contracts or for individual contracts. The determination shall be in writing.

(Ord. of 1-14-08(1), § 1)

Sec. 8-141. - Federal and state requirements; conflict resolution.

Where a federal or state grant agreement, or any federal or state law or regulations prevent the full application of this article, this article shall apply to the extent permitted by the applicable agreement, laws, and regulations.

(Ord. of 1-14-08(1), § 1)

Sec. 8-142. - Effective date.

This article shall continue in effect until 11:59 p.m. on December 31, 2012, at which time it shall be deemed repealed without further action by the county commissioners. Unless otherwise provided by an ordinance enacted by the county commissioners or by a contract between the county and the other party of the contract, if a legal action is commenced before the repeal of this article to enforce any contractual provision which incorporates by reference any of this article, the rights of parties with respect to such contractual provision shall, for purposes of the legal action, continue in effect notwithstanding the repeal. This article shall be effective on ratification.

(Ord. of 1-14-08(1), § 1)

The total value of minority business contracting will be (\$)_____

AFFIDAVIT A

This Affidavit and ALL THREE (3) SECTIONS Herein Must Be Completed By ALL BIDDERS and Submitted with Bid.

Section I - Listing of the Good Faith Effort

Bidder must earn at least 50 points from the Good Faith Efforts list for their Bid to be considered responsive and must submit documentation supporting all items checked within the timeframes set forth in Section III below.

I have made Good Faith Effort to comply under the following areas checked:

- 1 - Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed. "Contact" means contact by letter, fax, e-mail or other means to a viable and active address. CONTRACTOR MUST ATTACH EVIDENCE OF CONTACT TO THIS AFFIDAVIT AND SUBMIT WITH BID. Value = 10 points.
- 2.-Made the construction plans, specifications and requirements available for review by prospective MWBE businesses, or providing these documents to them at least 10 days before the bids are due. Value = 10 points.
- 3 - Broken down or combined elements of work into economically feasible units to facilitate minority participation. Value = 15 points.
- 4 - Worked with MWBE trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of MWBE'S. Value = 10 points.
- 5 - Attended prebid meetings scheduled by the public owner. Value = 10 points.
- 6 - Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors. Value = 20 points.
- 7 - Negotiated in good faith with interested MWBE'S and did not reject them as unqualified without discussing with MWBE'S sound reasons based on their capabilities. CONTRACTOR MUST ATTACH TO THIS AFFIDAVIT AND SUBMIT WITH BID COPIES OF QUOTES OR RESPONSES FROM ALL FIRMS SUBMITTING QUOTES OR RESOPNSES, AND, IF APPLICABLE, WRITTEN JUSTIFICATION FOR ANY REJECTION OF A MWBE BASED ON LACK OF QUALIFICATION. Value = 15 points.
- 8 - Provided assistance to an otherwise qualified MWBE in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help MWBE businesses in establishing credit. Value = 25 points.
- 9 - Negotiated joint venture and partnership arrangements with MWBE businesses in order to increase opportunities for MWBE business participation on the construction or repair project when possible. Value = 20 points.
- 10 - Provided quick pay agreements and policies to enable MWBE contractors and suppliers to meet cash-flow demands. Value = 20 points.

The undersigned hereby certifies that he or she has read the terms of the MWBE business commitment, that the bidder has made the Good Faith Efforts in the areas checked above, and that he or she is authorized to bind the bidder to the commitment herein set forth.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Section II - Portion of the Work to be Performed by Minority Firms

I will expend a minimum of _____% of the total dollar amount of the contract with MWBE. MWBE will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

(Attach additional sheets if necessary)

Name and Phone Number	*MWBE Category	Work description	Dollar Value

*MWBE categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with MWBE for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date _____ Name of Authorized Officer: _____

Signature: _____

Section III — Documentation of Good Faith Efforts

ALL BIDDERS, regardless of percentage of MWBE participation, MUST provide documentation of all Good Faith Efforts checked in Section I within the timeframes set forth in Parts A and B below.

Failure to submit these documents / information shall be grounds for deduction of Good Faith Points. In the event such a deduction results in a failure to achieve the required number of Good Faith Points, the Bid shall be rejected unless the bidder has otherwise demonstrated Good Faith Efforts.

PART A (Documentation Required to be Submitted With Bid)

Documentation MUST be provided WITH THE BID in order for the bidder to receive credit for certain items checked. If the bidder checked Items 1 or 7 in Section I, the bidder MUST provide documentation supporting those Good Faith Efforts WITH THE BID.

Examples of such documentation include, but are not limited to, the following:

ITEM 1

- Copies of solicitations for quotes to at least three (3) MWBE's from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- Copies of quotes and responses received from each firm responding to the solicitation.
- A telephone log of follow-up calls to each firm sent a solicitation.

ITEM 7

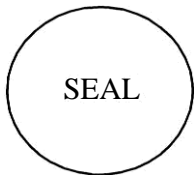
- Copies of quotes or responses received from all firms submitting quotes or responses for each subcontract, and, if applicable a letter detailing the reason(s) for any rejection of minority business(es) due to lack of qualification.

I do certify the attached documentation as true and accurate representation of my good faith efforts.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____
My commission expires _____

PART B (Documentation Required to be Submitted Within 72 Hours of Notification)

Certain documentation **MUST** be provided within 72 hours of notification of being the apparent lowest responsible, responsive bidder in order to receive credit for certain additional Items checked. If the bidder checked Items 2, 3, 4, 5, 6, 8, 9 or 10, the bidder **MUST** provide documentation supporting those Good Faith Efforts within 72 hours of notification of being the apparent lowest responsible, responsive bidder.

Examples of such documentation include, but are not limited to the following:

ITEM 2

- Invitation to view construction plans, specifications and requirements.
- Cover letter enclosing construction plans, specifications and requirements.

ITEM 3

- Copies of all bid solicitations or request for proposals broken down by scope of work.
- Letter detailing contractor's efforts to break down or combine elements of work into economically feasible units to facilitate minority participation.

ITEM 4

- Documentation of any contacts or correspondence to MWBE, community, or contractor organizations in an attempt to meet the goal.

ITEM 5

- Copy of pre-bid roster.

ITEM 6

- Letter documenting efforts to provide assistance in obtaining required bonding or insurance for MWBE.

ITEM 8

- Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

ITEM 9

- Letter documenting negotiations with MWBE businesses to create joint venture or partnership arrangement for the construction or repair project.

ITEM 10

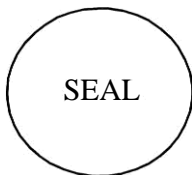
- Copy of quick pay agreements.
- Copy of quick pay policies.

I do certify the attached documentation as true and accurate representation of my good faith efforts.

Date _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____
Subscribed and sworn to before me this _____ day of _____ 20____
Notary Public _____
My commission expires _____

AFFIDAVIT B Intent to Perform Contract with Own Workforce.

County of _____

Affidavit of _____
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____

_____ contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____



State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____

Notary Public _____

My commission expires _____

APPENDIX E

MWBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor/Architect: _____

Address & Phone: _____

Project Name: _____

Pay Application #: _____ Period: _____

The following is a list of payments made to Minority and Women Business Enterprises on this project for the above-mentioned period.

A	B	C	D	E	F	G	H
MWBE FIRM NAME	* TYPE OF MWBE	ORIGINAL CONTRACT AMOUNT	PREVIOUS PAYMENTS	PAYMENT THIS PERIOD	TOTAL CHANGE ORDERS TO DATE	TOTAL AMOUNT COMMITTED (C + F)	TOTAL RETAINED TO DATE

*Minority categories: Black (B), Hispanic (H), Asian American (AA), American Indian (AI), White Female (WF), Socially and Economically Disadvantaged (SED)

Approved/Certified By:

Name

Title

Date

Signature

SUBMIT WITH EACH PAY REQUEST - FINAL PAYMENT - FINAL REPORT

Identification of MWBE Participation

Submission of Affidavits which include statements of "To Be Determined" or failure to submit the required information as outlined in the Specifications shall cause the Bid be deemed non-responsive and subject to rejection.

(Name of Bidder)

do hereby certify that on this project, we will use the following minority business enterprises as construction subcontractors, vendors, suppliers or providers of professional services.

Firm Name, Address and Phone #	Work type	"MWBE Category

*Minority categories: Black, African American (B), Hispanic (H), Asian American (A) American Indian (I), Female (F) Socially and Economically Disadvantaged (D)

OWNER-CONTRACTOR AGREEMENT

PROJECT NUMBER:

SCHOOL NAME:

THIS AGREEMENT, in four (4) copies, made this () day of _____, Two Thousand and Nineteen by and between _____ (herein referred to as the "Owner"), whose mailing address is _____ and _____ (herein referred to as the "Contractor"), whose mailing address is _____.

Correspondence, submittals, and notices relating to or required under this Contract shall be sent in writing to the above addresses; unless either party is notified in writing by the other, of a change in address.

WITNESSETH:

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the new construction of _____ (hereinafter referred to as the "Project" or the "Work"); and

WHEREAS, the Contractor desires to perform such construction in accordance with the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and Contractor:

Article 1

DEFINITIONS

- 1.1 All terms in this Agreement which are defined in the Information for Bidders and the General Conditions shall have the meanings designated therein.

- 1.2 The Contract Documents are as defined in the General Conditions. Such documents form the Contract, and all are as fully a part thereof as if attached to this Agreement or repeated herein. The Contract Documents consist of the Owner-Contractor Agreement, the General and Supplemental Conditions of the Contract, the Drawings, the Specifications, all Addenda issued prior to bidding, and all Modifications and Change Orders issued after execution of the Contract.

Article 2

STATEMENT OF THE WORK

- 2.1 The Project is the Work identified in the plans and specifications prepared by _____ dated _____, 2019 for _____ Board of Education, _____, including the following addenda:

A listing of the plans and specifications included in the Contract Documents is attached as Exhibit A.

- 2.2 The Parties agree that the Project shall include the following alternates:
- 2.3 The Parties agree to the following modifications to the Project's plans and specifications, including the noted value engineering items:

List item(s) and proposed deduct/add(s). If none, delete this language list "None"

- 2.4 The Parties agree that the following allowances are included in the Contract Sum in Section 5.1 below:

List item(s) and proposed allowance(s). If none, delete this language list "None"

2.5 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents.

2.6 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

Article 3

DESIGN CONSULTANT

3.1 The Design Consultant (as defined in the General Conditions) shall be () whose address is (), however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Design Consultant and so advising the Contractor in writing, at which time the person or organization so designated shall be the Design Consultant for purposes of this Contract.

Article 4

TIME OF COMMENCEMENT AND COMPLETION

4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.

4.2 Time is of the essence. The Contractor shall achieve Final Completion, as defined in the General Conditions on or before the date established for Final Completion in the Supplemental Conditions.

- 4.3 The Supplemental Conditions contains certain specific dates that shall be adhered to and are the last acceptable dates unless modified in writing by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in the General Conditions under 8.3 DELAYS AND EXTENSIONS OF TIME.
- 4.4 Should the Contractor fail to complete the Work on or before the dates stipulated for Substantial Completion and/or Final Completion, or such later date as may result from an extension of time granted by the Owner, he shall pay the Owner, as liquidated damages the sums set forth in the General and Supplemental Conditions.

Article 5

CONTRACT SUM

- 5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the sum of _____ Dollars (\$) herein referred to as the "Contract Sum". This amount includes the base bid and the Alternates in Section 2.2
- 5.2 The Contract Sum includes the value engineering items and other contract modifications noted in Section 2.3 above that total \$_____.
- 5.3 Unit Prices are established as follows for the Project:

Unit Price No. 1		\$
Unit Price No. 2		\$
Unit Price No. 3		\$
Unit Price No. 4		\$
Unit Price No. 5		\$

Article 6

PROGRESS PAYMENTS

- 6.1 The Contractor hereby agrees that on or about the First day of the month for every month during the performance of the Work he will deliver to the Owner's Project Manager an Application for Payment in accordance with the provisions of Article 9 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions. Payments due and unpaid under the Contract Documents shall not bear interest.

Article 7

OTHER REQUIREMENTS

- 7.1 The Contractor shall submit the Performance Bond, Labor and Material Payment Bond and Certification of Insurance as required by the Contract Documents.
- 7.2 The Owner shall furnish to the Contractor one (1) set of drawings and one (1) set of specifications, at no extra cost, for use in the Construction of the Work. Additional sets of drawings or specifications may be obtained by the Contractor by paying the Owner for the costs of reproduction, handling and mailing.
- 7.3 The Contractor shall make a good faith effort to utilize Historically Underutilized Businesses (HUB's) per N.C. Gen. Stat. 143-128.2, and as described in the construction documents.
- 7.4 The General Conditions, Supplemental Conditions and the plans and specifications, including any addenda, are incorporated herein by reference.

IN WITNESS WHEREOF, _____ Board of Education (hereinbefore called the "Owner") has caused these presents to be signed and its corporate seal to be hereunto affixed, attested by its Chairperson and Secretary, and _____ (hereinbefore called "Contractor") has caused these presents to be signed by its President and its Corporate seal to be hereunto affixed, as hereinafter attested, all as of the day and year first above written.

Mike Lee, Chair, Durham Public Schools Board of Education

Date

This instrument has been pre-audited in the manner required by the School Budget and Fiscal Control Act.

Paul LeSieur, Chief Finance Officer, Durham Public Schools

Date

Endorsement:

Executive Director
Durham Public Schools
Construction & Capital Planning

This contract was approved by the Board on the XXth date of Month Year.

INSERT CONSULTANT / COMPANY NAME

By: _____

Name/Title: _____

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is _____ of _____, a _____ (state of incorporation) corporation, duly authorized to do business in the state of North Carolina, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____, sealed with its corporate seal and attested by _____ as its Corporate Secretary.

Witness my hand and notarial seal this ___ day of _____, 20_.

Notary Public (SEAL/STAMP)

My commission expires: _____

PERFORMANCE BOND

IT IS HEREBY AGREED that

(Insert full name and address of Contractor)

as Principal, hereinafter called Contractor, and,

(Insert full name and address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto the

as Obligee, hereinafter called Owner, in the amount of _____ Dollars (\$ _____), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these obligations.

WHEREAS, Contractor has by written agreement dated _____, 20____, entered into a contract with Owner for the construction of (Insert the name of the Project)

in accordance with Drawings and Specifications prepared by (Insert full name and address of Architect/Engineer)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default, under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions, or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest

responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of any applicable statute of limitations under the Contract.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this _____ day of _____ 20_____.

PRINCIPAL

[Affix corporate seal]

(Name) _____
(Title) _____

(Witness)

SURETY

[Affix corporate seal]

(Name) _____
(Title) _____

(Witness)

LABOR AND MATERIAL PAYMENT BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

IT IS HEREBY AGREED that _____ (Insert full name and address of Contractor)

as Principal, hereinafter called "Principal," and, _____ (Insert full name and address of Surety)

as Surety, hereinafter called "Surety," are held and firmly bound unto the

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of _____ for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these obligations.

WHEREAS, Principal has by written agreement dated _____, 20_____, entered into a contract with Owner for the construction of _____ (Insert the name of the Project)

in accordance with Drawings and Specifications prepared by (Insert full name and address of Architect/Engineer)

which contract is by reference made a part hereof, and is hereinafter referred to as the "Contract."

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days, after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is

made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail; postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____ 20__.

PRINCIPAL

[Affix corporate seal]

(Name) _____
(Title) _____

(Witness)

SURETY

[Affix corporate seal]

(Name) _____
(Title) _____

(Witness)

Submittal Transmittal Form

INSERT PROJECT NAME HERE

To: _____

Date: ____ / ____ / ____

Attn: _____

From: _____

Phone: (____) _____

Submitter: _____

Phone: (____) _____

Product: _____

Section: _____

Manufacturer: _____

Phone: (____) _____

Architectural Dwg. #: _____

Detail Ref: _____

Contractor's Remarks:

Number of Copies: _____

Submittal No.: _____

Product Substitution (*Yes/No): _____

* If yes, has Substitution Request Form been submitted and approved?

Product Substitution Form (Circle one):

(Attached)

(Previously Submitted & Approved)

DURHAM PUBLIC SCHOOLS
COUNTY SALES AND USE TAX REPORT
SUMMARY TOTALS AND CERTIFICATION
APPENDIX A

CONTRACTOR: _____

Page _____ of _____

PROJECT: _____

FOR PERIOD: _____

	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL ALL COUNTIES
CONTRACTOR							
SUBCONTRACTOR(S) *							
COUNTY TOTAL							

- Attach subcontractor(s) report(s)
- ** Must balance with Detail Sheet(s)

I certify that the above figures do not include any tax paid on supplies, tools and equipment which were used to perform this contract and only includes those building materials, supplies, fixtures and equipment which actually became a part of or annexed to the building or structure. I certify that, to the best of my knowledge, the information provided here is true, correct, and complete.

Sworn to and subscribed before me,

This the _____ day of _____, 19_____

Signed

Notary Public

My Commission Expires: _____

Print or Type Name of Above

Seal

NOTE:
This certified statement may be subject to audit

STATE OF NORTH CAROLINA
 SALES AND USE TAX REPORT DETAIL
 APPENDIX A

CONTRACTOR: _____

Page _____ of _____

SUBCONTRACTOR _____

FOR PERIOD: _____

PROJECT: _____

PURCHASE DATE	VENDOR NAME	INVOICE NUMBER	TYPE OF PROPERTY	INVOICE TOTAL	COUNTY TAX PAID	COUNTY OF SALE *
				\$	\$	
				TOTAL:	\$	

* If this is an out-of-state vendor, the County of Sale should be the county to which the merchandise was shipped.

CHANGE PROPOSAL WORKSHEET SUMMARY FORM

Project: _____
 Contract: _____
 Contractor: _____

Proposal #: _____
 Project #: _____
 Contractor #: _____

Description of change:

INSTRUCTIONS FOR FORM: Only enter data in yellow boxes - all other fields will automatically calculate.

Contractor's detailed breakdown of material & labor must accompany this form. Percentages shaded in gray boxes are established by contract requirements and should not be modified.

Materials	(Attach list with Qty, Item, Unit \$, Unit mh, Total mh, OT mh, Total \$)		SUBTOTALS
1	Total Direct Cost of Materials	\$0.00	
2	Overhead & Profit on Item 1. (10% maximum, includes small tools & consumables)	10.0 % \$0.00	
3	Sales Tax	7.5 % \$0.00	
4	Shipping & Transportation		\$0.00
<hr/>			
Labor			
5	Manhours - Straight Time	0 MH @ \$25.00 /hr.	\$0.00
	Overtime Premium	0 MH @ \$12.50 /hr.	\$0.00
6	Overhead & Profit on Item 5. (10% maximum on straight labor cost, not premium portion) (O & P includes supervision time)	10.0 % \$0.00	
7	Payroll Taxes & Insurance	30.0% STRAIGHT TIME ONLY	\$0.00
		7.65% OVERTIME PORTION	\$0.00
<hr/>			
Equipment Rental	(Include quotes)		
8	Equipment Rental	\$0.00	
9	Overhead & Profit on Item 8. (6% maximum)	6.0 % \$0.00	\$0.00
<hr/>			
Subcontractors	(Include quotes with material & equipment backup)		
10	Subcontractors	\$0.00	
11	Overhead & Profit on Item 10. (6% maximum)	6.0 % \$0.00	\$0.00
<hr/>			
Subtotal of Proposal			\$0.00
12	Bonds (% of subtotal of proposal)	1.5%	\$0.00
TOTAL OF CHANGE PROPOSAL			\$0.00

Time Extension Requests: _____ day(s) Schedule Activity # Affected: _____

The Contractor agrees to perform the work outlined in this change proposal for the amount specified above and in accordance with the Contract documents if the work is authorized by the Owner.

Contractor's Signature: _____

Date: _____

Recommended by Design Consultant: _____

Date: _____

Owner's Representative Approval: _____

Date: _____

Change Order Request Form

PM Initials _____
 DOC Initials _____

Project Name _____

Reference: (RFI, RFP, ASI, BD) _____

DATE: _____ PROPOSAL #: _____ CONTRACT: _____

CONTRACTOR: _____ CONTRACTOR #: _____

DESCRIPTION OF CHANGE: _____

Materials

(Attach list with qty, item, unit mh, total mh, OT mh, Total \$)

- 1 Total direct cost of materials \$ -
- 2 Sales Tax 6.75% \$ -
- 3 Shipping and transportation \$ -
- 4 Overhead and Profit on Items 1-3 \$ - (10% maximum). (Includes small tools & consumables)

Materials Subtotal \$ -

Labor (include time sheets if requested)

- 5 Total man-hours: 0 @ 0 \$ -
- 6 Payroll taxes and insurance@ 0% \$ - (40% maximum)
- 7 Overhead and Profit on Items 5 & 6 \$ - (10% maximum). (O&P includes supervisor's time).

Labor Subtotal \$ -

Equipment Rental (includes quotes and pick-up / delivery tickets)

- 8 Equipment Rental \$ -
- 9 Overhead and Profit on Item 8 \$ - (10% maximum)

Equipment Rental Subtotal \$ -

Subcontractors (includes quotes with material and equipment backup)

- 10 Subcontractors \$ -
- 11 Overhead and Profit on Item 10 \$ - (5% maximum)

Subcontractor Subtotal \$ -

Subtotal of Proposal \$ -

- 12 Bonds (___% of subtotal proposal) 0% \$ - (2% maximum)

TOTAL OF CHANGE PROPOSAL \$ -

Time Extension Request _____ days _____ Schedule Activity # Affected _____ Schedule Date: _____

Contractor's Signature: _____ Date: _____

Architect's Signature: _____ Date: _____

Owner's Signature: _____ Date: _____

Note: Subcontractors must also fill out this form for all requested change orders.

Certificate of Compliance Section 00 65 13

INSERT PROJECT NAME HERE

Date:

Project Address: _____

I here by certify that to the best of my knowledge and actions the As-Built/Record Drawings for the above-indicated project are complete and accurate.

Company: _____ (Firm or Corporation making certification)

Represented By: _____
(Person authorized to sign)

Title: _____

Address: _____

License Number: _____

Federal ID Number: _____

Attest:

By: _____

Title: _____

Contractor's General Warranty

INSERT PROJECT NAME HERE

Date: _____
Project: _____
Contract: _____
Address: _____

The undersigned Contractor hereby warrants, in accordance with the applicable provisions and terms set forth in the Contract Documents, all materials and workmanship incorporated in the _____ contract of the _____ School, _____, Durham County, North Carolina, against any and all defects due to faulty materials or workmanship or negligence for a period of twelve (12) months, or such longer periods as set forth in the Contract Documents, from the effective date **of this warranty (_____)** as defined by the date of substantial completion . This warranty supercedes any and all dates listed in the enclosed subcontractor warranties thus honoring warranty work one year from the date of substantial completion listed here. This contractor further warrants all work incorporated in this project to remain leak proof and watertight at all points for a period of twenty-four (24) months from the effective date of this Warranty.

This Warranty shall be binding where defects occur due to normal usage conditions and does not cover willful or malicious damage, damage caused by acts of God or other casualties beyond the control of the Contractor.

This Warranty shall be in accordance to other warranties and guarantees set forth in the Contract Documents, and shall not act to constitute a waiver of additional protection of the Owner afforded, where applicable, by consumer protection and product liability provisions of law, and these stipulations shall not constitute waiver of any additional rights or remedies available to the Owner under the law.

Date of Substantial Completion: _____

(General Contractor)

By _____

Title _____

Address _____

Subscribed and sworn before me this
_____ day of _____, 20____

License # _____

Fed ID # _____
(Corporate Seal)

(Notary Public)

Certificate of Non Use of Asbestos-containing Products

INSERT PROJECT NAME HERE

Date: _____

Project: _____

Address: _____

I here by certify that to the best of my knowledge the products and materials incorporated into the above referenced project are free of asbestos and asbestos-containing materials.

Company: _____

(Name of Firm of Corporation making certification)

Represented By: _____

(Person authorized to sign)

Title: _____

(Owner/Partner/Pres./V. Pres.)

Address: _____

License Number: _____

Federal ID Number: _____

Attest:

By: _____

Title: _____

GENERAL CONDITIONS

NOTICE OF DISCLAIMER

TAKE NOTICE, that these General Conditions may contain language and Article, Section or Paragraph headings or names which appear similar to or the same as the provisions of the "General Conditions of the Contract for Construction", published by the American Institute of Architects, AIA Document A-201.

TAKE NOTICE, however, that these General Conditions are substantially and materially different in many respects from the AIA Document A-201 and that certain additions, deletions or other modifications have been made to provisions similar to those contained in the AIA Document. This document, further, contains provisions, which do not appear in the AIA document.

The use of any language or Article or Paragraph format similar to or the same as AIA Document A-201 does not constitute an endorsement by the American Institute of Architects of this document.

SECTION V GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

TABLE OF ARTICLES

1.	CONTRACT DOCUMENTS	9.	PAYMENTS AND COMPLETION
2.	DESIGN CONSULTANT	10.	PROTECTION OF PERSONS AND PROPERTY
3.	OWNER	11.	INSURANCE
4.	CONTRACTOR	12.	CHANGES IN THE WORK
5.	SUBCONTRACTORS	13.	UNCOVERING AND CORRECTION
6.	WORK BY OWNER OR BY SEPARATE CONTRACTORS	14.	TERMINATION OF THE CONTRACT
7.	MISCELLANEOUS PROVISIONS	15.	DISPUTE RESOLUTION
8.	TIME		

ARTICLE 1

CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 **AS SHOWN, AS INDICATED, AS DETAILED:** These words, and words of like implication, refer to information contained in Drawings and Specifications describing the Work, unless explicitly stated otherwise in the Contract Documents.

1.1.2 **CLAIM:** A Claim as used in the Contract is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, a credit against the payment of money, extension of time or other relief with respect to the terms of the Contract. The term Claim also includes other disputes and matters in question between the parties to a contract involved in the Owner's construction and repair projects arising out of or

relating to the Contract or the construction process.

- 1.1.3 **CONTRACT:** The Contract is the sum of all the Contract Documents. The Contract represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Paragraph 1.1.4. The Contract may also be referred to in the Contract Documents as “this Contract”, “this Agreement” or “the Agreement”.
- 1.1.4 **CONTRACT DOCUMENTS:** The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General and Supplemental Conditions), the Plans, Drawings, and Specifications, and all Addenda thereto issued prior to and all Modifications thereto issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties; (2) a Change Order or a Construction Change Directive issued pursuant to the provisions of Article 12; (3) a written interpretation issued by the Design Consultant pursuant to Paragraph 2.2.7; or (4) a written order for a minor Change in the Work issued pursuant to Section 12.4. The Contract Documents do not include any other documents including but not limited to soils, geotechnical or other reports, surveys and analysis, which may be printed, bound or assembled with the Contract Documents, or otherwise made available to the Contractor for review or information under this Contract, unless specifically enumerated and directly incorporated by reference in the Contract Documents.
- 1.1.5 **HE/HIS:** The term He or His is not intended to be gender specific.
- 1.1.6 **MANUFACTURER:** An individual, company, or corporation who manufactures, fabricates, or assembles a standard product. A standard product is one that is not made to special design, and if furnished by either direct sale or by contract to the Contractor, Subcontractor or Vendor.
- 1.1.7 **MATERIAL SUPPLIER OR VENDOR:** A person or organization who supplies, but who is not responsible for the installation of, materials, products and equipment.
- 1.1.8 **NOTICE:** The term Notice as used herein shall mean and include written notice. Notice shall be deemed to have been given when delivered to the address of the person, firm or corporation for whom intended, or to his, their or its duly authorized agent, representative or officer; or when enclosed in a postage prepaid wrapper or envelope addressed to such person, firm or corporation at his, their or its Notice Address and deposited in a United States mailbox by registered or certified mail. To “Notify” means to give Notice. The Notice Addresses for the Owner and Contractor are stated in the Owner-Contractor Agreement and may be changed by a party by giving Notice to the other of such change.
- 1.1.9 **PLANS OR DRAWINGS:** All drawings or reproduction of drawings pertaining to the Work.
- 1.1.10 **PRODUCT:** The term Product includes materials, systems and equipment.
- 1.1.11 **PROJECT:** The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.
- 1.1.12 **PROPOSAL:** A complete and properly signed document whereby the Contractor proposes to provide additional or a reduced scope of construction work on the Project for the sums stipulated therein, supported by data required by the Design Consultant or Owner.
- 1.1.13 **PROVIDE:** As a directive to the Contractor, and as pertaining to labor, materials or equipment,

"provide" means "furnish and install completely".

1.1.14 SPECIFICATIONS: Descriptions, provisions and requirements, pertaining to method and manner of performing the Work, or to quantities and qualities of materials or equipment to be furnished under terms of the Contract.

1.1.15 WORK: The Work comprises the construction and services required of the Contractor by the Contract Documents and includes all labor, supplies and other facilities or things necessary to produce such construction, and all materials, equipment, and supplies incorporated or to be incorporated in such construction.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contractor and Owner acknowledge that neither these General Conditions, nor any other Contract Document shall be construed against the Owner due to the fact that they may have been drafted by the Owner or the Owner's agent. For the purposes of construing these General Conditions, and any other Contract Document, both the Contractor and the Owner shall be considered to have jointly drafted them.

1.2.2 The Owner-Contractor Agreement shall be signed in not less than three (3) copies by the Owner and Contractor, and each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

1.2.3 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.4 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light upon the interpretation of the provisions to which they refer.

1.2.5 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings are for convenience only. The Contractor may subcontract the Work in such divisions as he sees fit consistent with applicable law and he is ultimately responsible for furnishing all of the Work.

1.2.6 Anything shown on the Drawings and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Detailed specifications take priority over general specifications and detailed drawings take precedence over general drawings. Any Work shown on one drawing shall be construed to be shown in all drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Owner-Contractor Agreement; the Supplemental Conditions; the General Conditions; the Specifications; the

Drawings. The Contractor shall notify the Design Consultant and the Owner of all such inconsistencies promptly. Any such conflict or inconsistency between or in the Drawings or Specifications shall be submitted by the Contractor promptly to the Owner and Design Consultant and the Design Consultant's decision thereon shall be final and conclusive.

1.2.7 The Contractor agrees that nothing contained in the Contract Documents or any contract between the Owner and the Design Consultant shall create any contractual relationship between the Design Consultant and the Contractor, or between the Design Consultant and any Subcontractor or Sub-subcontractors. The Contractor acknowledges and agrees that this Contract is not intended to create, nor shall any provision be interpreted as creating, any contractual relationship between the Owner or Contractor and any third parties.

1.2.8 The provisions of this Contract cannot be amended, modified, varied or waived in any respect except by a Modification. The Contractor is hereby given notice that no person has authority to orally waive, or to release the Contractor from any of the Contractor's duties or obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.

1.2.9 Any material or operation specified by reference to published specifications of a Manufacturer, a society, an association, a code, or other published standard, shall comply with requirements of the listed document which is current on date the Owner received bids for the construction of the Project. In case of a conflict between referenced document and the Specifications, Specifications shall govern. In case of a conflict between such listed documents, the one having more stringent requirements shall govern.

1.2.10 The Contractor, if requested, shall furnish an affidavit from each or any Manufacturer certifying that materials or products delivered to the job meets requirements specified.

1.3 OWNERSHIP AND USE OF DOCUMENTS

1.3.1 All Drawings, Specifications and copies thereof furnished by the Design Consultant are and shall remain the property of the Owner. They are to be used by Contractor only with respect to the Project and are not to be used by Contractor on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Owner on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of Owner's rights or the Design Consultant's common law copyright or other reserved rights. The Contractor will be furnished with 1 set(s) of paper drawings and specifications for free.

ARTICLE 2

THE DESIGN CONSULTANT

2.1 DEFINITIONS

2.1.1 The term "Design Consultant" or "A/E" or "Architect" or "Engineer" as used or set forth in the Contract Documents, shall mean the entity and its consultants or agents, or their duly authorized representatives, that is responsible for designing or engineering the Work, and performing the activities specified herein, and in the Agreement for Design Consultant Services, including any

consultants to said entity or firm acting within the scope of their agreements with the Design Consultant. Such firm or agency and its representatives shall act severally within the scope of particular duties entrusted to them, unless otherwise provided for in the Contract Documents or in the Agreement for Design Consultant Services.

2.1.2 The Design Consultant may be identified in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The Design Consultant is further described as and, throughout this document, shall mean one or both of the following:

2.1.2.1 ARCHITECT, a person or other legal entity lawfully licensed to practice architecture in the State wherein the Project is located; or

2.1.2.2 ENGINEER, a person or other legal entity lawfully licensed to practice engineering in the State wherein the Project is located.

2.2 SERVICES OF THE DESIGN CONSULTANT

2.2.1 The Design Consultant will provide certain services as hereinafter described and further described in the Agreement for Design Consultant Services.

2.2.2 Should errors, omissions, or conflicts in the Drawings, Specifications, or other Contract Documents prepared by or on behalf of the Design Consultant be discovered, the Design Consultant will prepare such amendments or supplementary documents and provide consultation as may be required.

2.2.3 The Design Consultant will visit the site at intervals appropriate to the stage of construction to familiarize itself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. The Design Consultant will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work, but it shall make as many inspections as may reasonably be required to fulfill its obligations to the Owner. On the basis of such on-site observations, the Design Consultant and his consultants shall endeavour to guard the Owner against defects and deficiencies in the Work.

2.2.3.1 The Design Consultant will conduct the construction meetings and shall be responsible for preparing accurate and complete minutes of all such meetings and other Project meetings and distributing same to all participants. The meetings shall be held on a bi-weekly basis. The Design Consultant shall chair the meeting and prepare and distribute minutes of each such meeting to the Contractor and Owner as soon after the meeting as practical, but in any case within seven (7) days of the meeting. The purpose of the meetings will be to review the status of the Project and to address such other matters relating to the Project as an Owner, Design Consultant and Contractor deem appropriate, including remedial actions that may be necessary to ensure required progress and completion in accordance with the construction schedule and Contract time.

2.2.3.2 The Design Consultant shall review construction schedules prepared by the Contractor, as well as coordination of construction performed by separate contractors or by the Owner's own forces, including equipment supplied by the Owner.

2.2.4 The Design Consultant will render written field reports to the Owner in the form required by the Owner relating to the periodic visits and inspections of the Project required by Paragraph

- 2.2.3.
- 2.2.5 The Design Consultant will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Design Consultant will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any portion of the Work.
- 2.2.6 The Design Consultant and Owner shall at all times have access to the Work wherever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Design Consultant and Owner may perform their functions under the Contract Documents.
- 2.2.7 As required, the Design Consultant will render to the Owner, within a reasonable time, interpretations concerning the design and other technical aspects of the Work and the Contract Documents.
- 2.2.8 All communications, correspondence, submittals, and documents exchanged between the Design Consultant and the Contractor in connection with the Project shall be through the Owner or in the manner prescribed by the Owner. Further, all communications, correspondence, submittals and documents transmitted from the Owner or Design Consultant will be directed to the Contractor and copied to the Owner or Design Consultant.
- 2.2.9 All interpretations and decisions of the Design Consultant shall be consistent with the intent of and reasonably inferable from the Contract Documents.
- 2.2.10 The Design Consultant's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.
- 2.2.11 If the Design Consultant observes any Work that does not conform to the Contract Documents, the Design Consultant shall report this observation to the Owner. The Design Consultant will prepare and submit to the Owner "punch lists" of the Contractor's work, which is not in conformance with the Contract Documents. The Owner will transmit such "punch lists" to the Contractor.
- 2.2.12 The Design Consultant has the authority to condemn or reject any or all of the Work on behalf of the Owner when, in its opinion, the Work does not conform to the Contract Documents. Whenever, in the Design Consultant's reasonable opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Design Consultant will have the authority to require special inspection or testing of any portion of the Work in accordance with the provisions of the Contract Documents whether or not such portion of the Work be then fabricated, installed or completed.
- 2.2.13 The Design Consultant will review the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and for general compliance with the Contract Documents. Such action shall be taken within fourteen (14) days of receipt unless otherwise authorized by the Owner.
- 2.2.14 The Owner will establish with the Design Consultant procedures to be followed for review and processing of all Shop Drawings, catalogue submittals, project reports, test reports, maintenance manuals, and other necessary documentation, as well as requests for changes and applications

for extensions of time.

- 2.2.15 The Design Consultant will prepare Change Orders and Construction Change Directives when requested by the Owner.
- 2.2.16 The Design Consultant and the Owner will conduct inspections to determine the dates of Substantial Completion and Final Completion. The Design Consultant will issue a final Certification of Payment.
- 2.2.17 The Design Consultant will prepare three (3) printed copies and one (1) electronic computer file compatible with the latest version of AutoCAD, or other program designated by Owner, showing significant Changes in the Work made during the construction process, based on neatly and clearly marked-up Drawings, prints, and other data furnished by the Contractor(s) and the applicable Addenda, clarifications and Change Orders which occurred during the Project. The Design Consultant will also provide the Owner assistance in the original operation of any equipment or system such as initial start-up, testing, adjusting, and balancing.
- 2.2.18 In case of the termination of the employment of the Design Consultant, the Owner may appoint a Design Consultant whose status under the Contract Documents shall be that of the former Design Consultant.

ARTICLE 3

OWNER

3.1 DEFINITION

- 3.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and may be referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner or his authorized representative or agent. The phrase "Owner or its agent" as used in this Agreement, does not include the Separate Contractors or their Subcontractors.

3.2 INFORMATION, SERVICES AND RIGHTS OF THE OWNER

- 3.2.1 The Owner will provide administration of the Contract as herein described. The Design Consultant shall also provide aspects of administration of the Contract as herein described or as specified in the Agreement for Design Consultant Services.
- 3.2.2 The Owner shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.
- 3.2.3 The Owner shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.
- 3.2.4 The Owner will have authority to require special inspection or testing of portions of the Work to the same extent as the Design Consultant in accordance with Paragraph 2.2.12 whether or not such portion of the Work be then fabricated, installed, or completed. However, neither the Owner's authority to act under Paragraph 3.2.4, nor any decision made by the Owner in good faith either to exercise or not to exercise such authority shall give rise to any duty or

responsibility of the Owner to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

- 3.2.5 The Owner shall have the authority and discretion to call, schedule, and conduct job meetings to be attended by the Contractor, representatives of his Subcontractors, and the Design Consultant, to discuss such matters as procedures, progress, problems, and scheduling.
- 3.2.5.1 The Contractor is requested and required to attend weekly job site progress conferences as called by the Design Consultant. The Contractor shall be represented at these job progress conferences by project personnel authorized by the Contractor to make schedule and financial decision and by project personnel representatives. These meetings shall be open to Subcontractors, Material Suppliers, and any others who can contribute shall be encouraged by the Contractor to attend. It shall be the principal purpose of these meetings, or conferences, to affect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the Project on schedule and to complete the Project within the specified Contract Time. The Contractor shall be prepared to assist progress of the Work as required in his particular contract and to recommend remedial measures for the correction of progress as may be appropriate. The Design Consultant shall be the coordinator of the conferences and shall preside as chairman.
- 3.2.5.2 If the Project is awarded as a single prime construction contract, the Design Consultant shall determine which, if any, Subcontractors and/or Material Suppliers shall be required to attend weekly job site progress conferences. The Contractor shall comply with this request and the meeting shall be conducted as described in Subparagraph 3.2.5.1.
- 3.2.6 The Owner will establish procedures to be followed for processing all Shop Drawings, catalogues, and other project reports, and other documentation, test reports, and maintenance manuals.
- 3.2.7 The Owner and Design Consultant will review all requests for changes and shall implement the processing of Change Orders, including applications for extension of the Contract Time.
- 3.2.8 The Owner, will not be responsible for the failure of the Contractor to plan, schedule, and execute the Work in accordance with the approved schedule or the failure of the Contractor to meet scheduled Completion Dates or the failure of the Contractor to schedule and coordinate the Work of his own trades and Subcontractors or to coordinate and cooperate with any Separate Contractors.
- 3.2.9 The Owner, in consultation with the Design Consultant, will review and process all Applications for Payment by the Contractor, including the final Application for Payment.
- 3.2.10 The Owner and Design Consultant shall not be responsible or liable to Contractor for the acts, errors or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons performing any of the Work or working on the Project.
- 3.2.11 The Owner shall furnish surveys describing the physical characteristics and legal limitations for the site of the Project, which are in its possession and are relevant to the Work.
- 3.2.12 The Owner shall secure and pay for necessary easements, required for permanent structures or for permanent changes in existing facilities.
- 3.2.13 The Owner shall furnish information or services under the Owner's control with reasonable promptness to avoid unreasonable delay in the orderly progress of the Work.

- 3.2.14 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, copies of Drawings and Specifications in accordance with the Supplemental Conditions.
- 3.2.15 The Owner will make reasonable efforts to make available for the Contractor's reasonable review, at the Owner's offices or together with the Contract Documents, certain boring logs, geotechnical, soils and other reports, surveys and analyses pertaining to the Project site of which the Owner is aware, has in its possession and are relevant to the Work. Any boring logs that are provided to the Contractor are only intended to reflect conditions at the locations of the borings and do not necessarily reflect site conditions at other locations. Any reports, surveys and analyses provided by Owner are for the Contractor's information only, and their accuracy and completeness are not guaranteed or warranted by the Owner or the Design Consultant, and such reports are not adopted by reference into, nor are they part of the Contract Documents. Notwithstanding any factual statement, conclusion, or any language or recommendations contained in such reports, the Contractor assumes full responsibility for inspection of the site and determination of the character, quality and quantity of any soil, surface or subsurface conditions that may be encountered or which may affect the Work, and for the means and methods of construction that he employs when performing the Work.
- 3.2.16 The foregoing rights are in addition to other rights of the Owner enumerated herein and those provided by law.

3.3 OWNER'S RIGHT TO STOP OR TO SUSPEND THE WORK

- 3.3.1 If the Contractor fails to correct defective Work as required by Section 13.2 or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the Owner by a written Notice may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.
- 3.3.2 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the Owner.
- 3.3.3 If the performance of all or any part of the Work (including the work of the Contractor and its Subcontractors) is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner or the Design Consultant, or by failure of any one of them to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no Claim shall be made under this Paragraph for any suspension, delay, or interruption pursuant to Paragraph 3.4.1, or for which Claim is provided or excluded under any other provision of this Contract. No Claim under this Paragraph shall be allowed on behalf of the Contractor or its Subcontractors, unless within twenty (20) days after the act or failure to act involved, and for continuing or ongoing acts or failures to act within twenty (20) days of the first day of the act or failure to act, the Contractor submits to the Owner a written statement setting forth, as fully as then practicable, the extent of such Claim, and unless the Claim is asserted in writing within thirty (30) days after the termination of such suspension, delay, or interruption. For continuing or ongoing acts or failures to act, the Contractor shall update its written statement every twenty (20) days until the suspension, delay or interruption is terminated. The Contractor shall waive any and all Claims

under this Paragraph 3.3.3 which are not filed in strict conformance with Paragraph 3.3.3. The Contractor shall indemnify, defend and hold the Owner harmless from any Claim by a Subcontractor that is waived because it is not filed in strict conformance with this Paragraph 3.3.3 or any other provision of the Contract regarding Claims.

3.3.4 In the event of a suspension of the Work or delay or interruption of the Work per Paragraph 3.3.3, the Contractor will and will cause his Subcontractors to protect carefully his, and their, materials and Work against damage, loss or injury from the weather and maintain completed and uncompleted portions of the Work as required by the Contract Documents. If, in the opinion of the Owner, any Work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to so protect same, such Work and materials shall be removed and replaced at the expense of the Contractor.

3.3.5 No Claim by the Contractor under Paragraph 3.3.3 shall be allowed if asserted after final payment under this Contract or if it is not asserted in strict conformance with Paragraph 3.3.3.

3.4 OWNER'S RIGHT TO CARRY OUT THE WORK

3.4.1 If the Contractor defaults or otherwise neglects to carry out the Work in accordance with the Contract Documents and fails within ten (10) days after the date written Notice is given by the Owner, with a copy of such Notice sent to the Contractor's Surety, to commence and continue remedy of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy he may have, make good such deficiencies and may further elect to complete all Work thereafter through such means as the Owner may select, including the use of a new contractor pursuant to Paragraph 3.4.2. In such case, the Owner shall provide Notice to the Contractor's Surety and an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Design Consultant's additional services made necessary by such default, neglect or failure and any other damages suffered by Owner as a result of Contractor's breach, including but not limited to Owner's reasonable attorney's fees and litigation costs and expenses. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor or its Surety shall pay the difference to the Owner. Notwithstanding the Owner's right to carry out a portion of the Work, warranty, maintenance and protection of the Work remains the Contractor's and Surety's responsibility. Further, the provisions of this Paragraph do not affect the Owner's right to require the correction of defective or non-conforming Work in accordance with Section 13.2.

3.4.2 Whenever the Contractor shall be, and declared by the Owner to be in default under the Contract, the Owner having substantially performed Owner's obligations thereunder, the Surety shall promptly remedy the default, or shall be liable to Owner for damages pursuant to the Performance Bond and as provided by law. Any action by Surety or by Owner against the Surety shall not relieve Contractor of its duties, responsibilities and liabilities to Owner pursuant to the Contract or as allowed by law.

ARTICLE 4

CONTRACTOR

4.1 DEFINITION

4.1.1 The Contractor is the person or organization identified as such in the Owner-Contractor Agreement and may be referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative, who shall have authority to bind the Contractor in all matters pertinent to the Contract.

4.1.2 The Contract is not one of agency by the Contractor for Owner but one in which Contractor is engaged independently in the business of providing the services and performing the Work herein described as an independent contractor.

4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 The Contractor represents that prior to executing this Contract, the Contractor carefully reviewed and studied the Contract Documents and notified the Owner and Design Consultant of any errors, inconsistencies or omissions of which the Contractor is aware. The Contractor agrees to continuously and carefully study and compare the Contract Documents after the execution of this Contract and shall at once report to the Owner and Design Consultant any error, inconsistency or omission he may discover, including, but not limited to, any requirement which may be contrary to any law, ordinance, rule, regulation, building code, or order of any public authority bearing on the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected Work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Design Consultant for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without it being specified in Contract Documents and, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.2.2 The Contractor and his Subcontractors shall keep at the site of the Work at least one copy of the Drawings and Specifications and shall at all times give the Owner, the Design Consultant, inspectors, as well as other representatives of the Owner access thereto.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.1.1 It shall be the Contractor's responsibility to schedule the Work; to maintain a progress schedule for the Project; and to notify the Design Consultant and the Owner of any changes in the progress schedule. He shall be responsible for providing adequate notice to all Subcontractors to insure efficient continuity of all phases of the Project. The Contractor is responsible for keeping the Owner and Design Consultant fully informed as to the work progress, including immediate notification of any work progress changes.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and Sub-subcontractors, Suppliers, their agents and employees, and other

persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly contracted by the Contractor.

- 4.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the Owner or the Design Consultant in their administration of the Contract, or by inspections, tests or approvals (or the lack thereof) required or performed under Section 7.6 by persons other than the Contractor.
- 4.3.4 Before starting a section of the Work, the Contractor shall carefully examine all preparatory work that has been executed to receive his work to see that it has been completed in accordance with the Contract Documents. He shall check carefully, by whatever means are required, to ensure that his work and adjacent, related work will finish to proper and required standards for quality, contours, planes, and levels.
- 4.3.5 The Contractor understands and agrees that the Owner and Design Consultant will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner and the Design Consultant will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.
- 4.3.6 The Contractor shall not use or provide Subcontractor equipment, materials, methods or persons to which Owner and Design Consultant have a reasonable objection and shall remove no portion of the Work or stored materials from the site of the Work, except for defective Work the Contractor may be required to replace or repair as set forth herein.
- 4.3.7 The Contractor shall verify all grades, lines, levels and dimensions as indicated and shown on the Drawings and in the Specifications prior to beginning any portion of the Work and shall immediately report in writing any errors or inconsistencies to the Design Consultant before commencing that portion of the Work.

4.4. CONTRACTOR'S REPRESENTATIONS

- 4.4.1 By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents:
 - .1 That he is experienced in and competent to perform the type of work required and to furnish the Subcontractors, materials, supplies, equipment and services to be performed or furnished by him;
 - .2 That he is financially solvent, able to pay his debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required under the Contract;
 - .3 That he is familiar with all Federal, State, County, municipal and department laws, ordinances, permits, regulations, building codes and resolutions which may in any way affect the Work or those employed therein, including but not limited to any special laws or regulations relating to the Work or any part thereof;
 - .4 That such temporary and permanent Work required by the Contract Documents will be

satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;

- .5 That he has carefully examined the Contract Documents and the site of the Work and that from his own investigations, he has satisfied himself and made himself familiar with: (1) the nature and location of the Work; (2) the character, quality and quantity of surface and subsurface materials likely to be encountered, including, but not limited to, all structures and obstructions on or at the Project site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;
- .6 That he will fully comply with all requirements of the Contract Documents;
- .7 That he will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious and economical manner consistent with the best interests of the Owner;
- .8 That he will furnish efficient business administration and experienced project management and supervision, and an adequate supply of workers, equipment, tools and materials at all times;
- .9 That he has carefully reviewed the Work required and that the Work can be planned and executed in a normal and orderly sequence of Work and reasonably scheduled so as to ensure completion of the Work in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor and other delays, interruptions and disruptions of the Work;
- .10 That he will complete the Work within the Contract Time and all portions thereof within any required Completion Dates;
- .11 That his Contract Sum is based upon the labor, materials, systems and equipment required by the Contract Documents, without exception;
- .12 That he will make a good faith effort to utilize Historically Underutilized Businesses (HUB's) per N.C. Gen. Stat. 143-128.2, and as described in the construction documents; and
- .13 That he will coordinate construction activities to ensure that operations are carried out with due consideration given to conservation of energy, water and materials.

4.5 LABOR AND MATERIALS

- 4.5.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary or proper for or incidental to the execution and completion of the Work required by and in accordance with the Contract Documents and any applicable code or statute, whether specifically required by the

Contract Documents or whether their provision may reasonably be inferred as necessary to produce the intended results, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Final payment will not be made until the Work is so completed and Contractor has otherwise complied with the Contract Documents in full.

4.5.2 The Contractor shall at all times enforce strict discipline and good order among his employees and Subcontractors performing any of the Work and shall not employ or contract with on the Work any unfit person or entity or anyone not skilled in the task assigned to him. The Owner may, by Notice, require the Contractor to remove from the Work any employee or employee of a Subcontractor performing any of the Work, that the Owner deems incompetent, careless or otherwise objectionable.

4.5.3 The Contractor shall be responsible for ensuring that the Work is completed in a skillful and workmanlike manner.

4.5.4 All equipment, apparatus and/or devices of any kind to be incorporated into the Work that are shown or indicated on the Drawings or called for in the Specifications or required for the completion of the Work shall be entirely satisfactory to the Owner and the Design Consultant as regards operations, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus and/or device shall relieve the Contractor of his responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by proper and acceptable equipment, etc. or put in good working order satisfactory to the Owner and Design Consultant without additional cost to the Owner.

4.6 WARRANTY

4.6.1 The Contractor warrants to the Owner and the Design Consultant that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be in accordance with generally accepted industry standards, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or the Design Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 13.

4.6.2 The Contractor will be required to complete the Work specified and to provide all items needed for construction of the Project, complete and in good order.

4.6.3 The warranties set forth in this Section 4.6 and elsewhere in the Contract Documents shall survive Final Completion of the Work under Section 9.9.

4.6.4 The Contractor guarantees and warrants to the Owner all Work as follows:

- .1 That all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified;
- .2 That all Work will be in accordance with generally accepted industry standards and free of omissions and faulty, poor quality, imperfect and defective material or workmanship;

- .3 That the Work shall be entirely watertight and leak proof in accordance with all applicable industry customs and practices, and shall be free of shrinkage and settlement;
 - .4 That the Work, including but not limited to, mechanical and electrical machines, devices and equipment, shall be fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care;
 - .5 That consistent with requirements of the Contract Documents, the Work shall be installed and oriented in such a manner as to facilitate unrestricted access for the operation and maintenance of fixed equipment;
 - .6 That the Work will be free of abnormal or unusual deterioration which occurs because of poor quality materials, workmanship or unsuitable storage; and
 - .7 That the products or materials incorporated in the Work will not contain asbestos.
- 4.6.5 All Work not conforming to guarantees and warranties specified in the Contract Documents, including substitutions not properly approved and authorized, may be considered defective. If required by the Design Consultant or Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- 4.6.5.1 The Contractor will submit a written affidavit certifying that none of the materials incorporated in the Project contain asbestos.
- 4.6.6 If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof as defined in Paragraph 8.1.3 or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract Documents, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of Notice from the Owner to do so. The Owner shall give such Notice with reasonable promptness after discovery of the condition. For items that remain incomplete or uncorrected on the date of Substantial Completion, the one (1) year warranty shall begin on the date of Final Completion of the Work or upon correction of the defective Work.
- 4.6.6.1 The Contractor further warrants that for a period of twenty-four (24) months following the date of Substantial Completion that the building shall be watertight and leak free in every area. The Contractor shall, immediately upon notification by the Owner of water infiltration, determine the source of the water infiltration and, at the Contractor's own expense, do any work necessary to make the building watertight. The Contractor shall also, at the Contractor's own expense, repair or replace any other damaged material to return the building to its original accepted condition.
- 4.6.6.2 In the event Substantial Completion is achieved in stages, all applicable warranties will begin on the date the last portion of the Project achieved Substantial Completion.
- 4.6.7 If at any time deficiencies in the Work are discovered which are found to have resulted from fraud or misrepresentation, or an intent or attempt to or conspiracy to defraud the Owner by the Contractor, any Subcontractor or Supplier, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty.

- 4.6.8 Any materials or other portions of the Work, installed, furnished or stored on site which are not of the character or quality required by the Specifications, or are otherwise not acceptable to the Design Consultant or the Owner, shall be immediately removed and replaced by the Contractor to the satisfaction of the Design Consultant and Owner, when notified to do so by the Design Consultant or Owner.
- 4.6.9 If the Contractor fails to correct defective or non-conforming Work as required by Paragraph 4.6.6, or if the Contractor fails to remove defective or non-conforming Work from the site, as required by Paragraph 4.6.8, the Owner may elect to either correct such Work in accordance with Section 3.4 or remove and store materials and equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days written Notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Design Consultant's additional services and Owner's reasonable attorney's fees made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.
- 4.6.9.1 If the Contractor, after notice, fails within 48 hours to develop and transmit a proposed plan of remedial action to the Design Consultant and Owner for correction of warranty items, and/or fails to proceed within three (3) days to commence corrective measures of warranty items in compliance with the terms of the warranty/guarantee, the Owner may have the defects corrected and the Contractor and surety shall be liable for all expense incurred.
- 4.6.10 The Contractor shall bear the cost of making good all of the Work of the Owner, Separate Contractors or others, destroyed or damaged by such correction or removal required under this Article 4, Article 13 or elsewhere in the Contract Documents.
- 4.6.11 In the event the manufacturer does not have a suitable written warranty form to fully cover the guarantee requirements as set forth in the Specifications, the Contractor shall arrange for the manufacturer to provide a written warranty in such form as shall fully document the guarantee set forth in the Specifications.
- 4.6.12 The Contractor shall provide to the Owner all material, equipment, or other special warranties required by the Contract Documents within thirty (30) days after the date of Substantial Completion. All warranties shall be issued in the name of the Owner, or shall be transferable to the Owner, shall be in a form satisfactory to the Owner, and shall commence in accordance with Article 4.6.
- 4.6.13 The warranties contained herein shall not limit the Contractor's responsibility for the correction of defective or deficient work on the Project.
- 4.7 TAXES
- 4.7.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time the Owner received bids for the construction of the Project, whether or not yet effective.
- 4.7.2 Sales and Use Tax. Contractor shall be responsible for complying with any applicable sales and

use tax obligations imposed by Chapter 105, Article 5 of the North Carolina General Statutes. Where Contractor has been contracted with to oversee “new construction” or “reconstruction” as defined in G.S. 105-164.4H, Contractor shall be responsible for issuing and maintaining an Affidavit of Capital Improvement.

4.8 PERMITS, FEES AND NOTICES

4.8.1 The Owner shall be responsible for fees associated with permits and approval of the Drawings including but not limited to building permit, utility impact fees, stormwater permit and driveway permit.

4.8.2 The Contractor is responsible for all fees, permits and other costs associated with temporary utilities, including but not limited to installation, use, disconnection, removal and/or relocation.

4.8.3 The Contractor will pay for his own license, inspection and re-inspection fees for the proper execution and completion of the Work.

4.8.4 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work, including but not limited to all applicable building codes. If Contractor believes that any part of the Drawings or Specifications are inconsistent with applicable laws, rules, regulations, lawful orders of public authorities or building codes, Contractor shall Notify the Owner and Design Consultant of such inconsistencies immediately.

4.9 ALLOWANCES

4.9.1 The Contractor shall include in the Contract Sum all Allowances stated in the Contract Documents. Items covered by these Allowances shall be supplied for such amount and by such persons as the Owner may direct, but the Contractor will not be required to employ persons against whom he makes a reasonable objection.

4.9.2 Unless otherwise provided in the Contract Documents:

- .1 Allowances for Work: These allowances shall cover the cost to the Contractor for the materials and equipment required by the allowance delivered at the site, all applicable taxes, unloading, uncrating and storage, protection from elements, labor, installation and finishing and other expenses required to complete the installation, and a fixed percentage for overhead and profit as defined in Article 12.
- .2 Allowances for Products/Materials: Allowance includes the cost of the product, delivery to the site and applicable taxes. The Contractor's costs for unloading and handling on the site, labor, installation, overhead, profit and other expenses contemplated for the material allowance shall be included in the Contract Sum and not in the allowance;
- .3 Whenever the cost is more than or less than the Allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expense.

4.10 SUPERINTENDENT

4.10.1 The Contractor shall employ, and have approved by the Owner, a competent superintendent and

necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. If the Contractor employs more than a single individual in this role, the Owner shall be provided an organizational chart and personnel listing for the staff performing the functions of a superintendent. In such event, all references to the superintendent elsewhere in the Contract Documents shall mean the staff performing the functions of a superintendent.

4.10.2 The superintendent shall be in attendance at the Project site not less than eight (8) hours per day, five (5) days per week, unless the job is closed down due to conditions beyond the control of the Contractor or until termination of the Contract in accordance with the Contract Documents. It is understood that such superintendent shall be acceptable to the Owner and shall be the one who will be continued in that capacity for the duration of the Project, unless he ceases to be on the Contractor's payroll or the Owner otherwise agrees. The superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the Work.

4.11 PROGRESS SCHEDULE

4.11.1 The Contractor shall prepare and submit to the Owner for the Owner's review and approval an estimated progress schedule for the Work. The estimated project schedule shall be submitted within 10 days of being awarded the Project by the Owner.

4.11.2 The Contractor shall provide a project Critical Path Method (CPM) Construction Schedule in an electronic format for the entire Project. The schedule will be in such format as directed by Owner and Design Consultant. The Project schedule will be reviewed/updated on at least a monthly basis. The schedule will be utilized for monitoring the progress of the Project. The schedule will contain the Schedule of Values to be used as a basis for reviewing the amount of monthly progress payments to be made to the Contractor. The CPM schedule shall be submitted and approved prior to the Design Consultant's approval of any Applications for Payment, except for the reimbursement of the Contractor's cost for bonds and insurance.

4.12 RESPONSIBILITY FOR COMPLETION

4.12.1 The Contractor shall furnish such manpower, materials, facilities and equipment and shall work within the normal scheduled working hours to ensure the performance of the Work within the Completion Dates specified in the Owner-Contractor Agreement. If for any reason the Contractor must work outside of the normal scheduled working hours, a custodian employed by the Owner is required to be in attendance when accessing the work area. The Contractor agrees to reimburse the Owner for such custodian's time. The reimbursement is due with the subsequent payment application.

4.12.2 If it becomes apparent to the Design Consultant or Owner that the Work will not be completed within required Completion Dates, the Contractor agrees to undertake some or all of the following actions, at no additional cost to the Owner, in order to ensure, in the opinion of the Design Consultant and Owner, that the Contractor will comply with all Completion Date requirements:

- .1 Increase manpower, materials, crafts, equipment and facilities;
- .2 Increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing, including but not limited to night shifts,

overtime operations and Sundays and holidays;

- .3 Reschedule activities to achieve maximum practical concurrence of accomplishment of activities;
 - .4 Require that his superintendent be at the Project site not less than ten (10) hours per day, six (6) days per week; and
 - .5 Reimburse the Owner in accordance with Paragraph 4.12.1 above for all work performed outside of the normal scheduled work hours.
- 4.12.3 In undertaking the actions required under Paragraph 4.12.1, Contractor shall prepare and adhere to a recovery schedule if the Project is behind schedule by four (4) or more days.
- 4.12.4 If the actions taken by the Contractor are not satisfactory, the Design Consultant or Owner may direct the Contractor to take any and all actions necessary to ensure completion within the required Completion Dates, without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.
- 4.12.5 If, in the opinion of the Design Consultant or Owner, the actions taken by the Contractor pursuant to this Article or the progress or sequence of the Work are not accurately reflected on the construction schedule, the Contractor shall revise such schedule to accurately reflect the actual progress and sequence of the Work. The Contractor shall perform the Work in general accordance with the most recent schedule approved by the Owner and Design Consultant.
- 4.12.6 Failure of the Contractor to substantially comply with the requirements of this Article, may be considered grounds for a determination by the Owner, pursuant to Article 14, that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.
- 4.12.7 The Owner may, at its sole discretion and for any reason, other than due to the fault of Contractor require the Contractor to accelerate the Work by providing overtime, Saturday, Sunday and/or holiday work and/or by having all or any Subcontractors designated by the Owner provide overtime, Saturday, Sunday, and/or holiday work. In the event that the Owner requires such acceleration a Change Order shall be issued in accordance with Article 12.
- 4.12.8 This Section 4.12 does not eliminate the Contractor's responsibility to comply with the local noise ordinances, all highway permit requirements and all other applicable laws, regulations, rules, ordinances, resolutions, and permit requirements.
- 4.13 DOCUMENTS AND SAMPLES AT THE SITE
- 4.13.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Design Consultant upon completion of the Work.
- 4.14 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES
- 4.14.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the

Work by the Contractor or any Subcontractor, Manufacturer, Supplier or distributor to illustrate some portion of the Work.

- 4.14.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.
- 4.14.3 Samples are physical examples, which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
- 4.14.4 Manuals are manufacturer's installation, start-up, operating, and maintenance and repair instructions together with parts lists, pictures, sketches and diagrams, which set forth the manufacturer's requirements for the benefit of the Contractor and the Owner.
- 4.14.5 The Contractor shall prepare or have prepared at its expense and shall review, indicate approval thereupon, and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the other work of the Owner or any Separate Contractor, all Shop Drawings, Product Data, Manuals and Samples required by the Contract Documents.
 - 4.14.5.1 Unless otherwise directed in writing, the Contractor shall submit no less than three (3) copies of each Shop Drawing, Product Data, or Manuals to the Design Consultant. Routing of said submittals will be from the Contractor to the Design Consultant with a copy of the transmittal to the Owner. The Design Consultant will return one (1) copy of the reviewed submittal to the Contractor.
 - 4.14.5.2 Where the Contract calls for the submittal of manufacturer's data to the Design Consultant for information only, such submittals shall be made before the commencement of any portion of the Work requiring such submission. Work performed without benefit of approved Shop Drawings for any portion of the Work is subject to removal and replacement at no cost to the Owner.
 - 4.14.5.3 For standard manufactured items not requiring special Shop Drawings for manufacture, Contractor shall submit no less than three (3) copies of Manufacturer's catalogue sheets showing illustrated cuts of item to be furnished, scale details, sizes, dimensions, performance characteristics, capacities, wiring diagrams and controls, and all other pertinent information. One (1) copy of reviewed submissions will be returned to the Contractor.
 - 4.14.5.4 Unless otherwise directed in writing, all other Shop Drawings, Contractor shall submit no less than three (3) legible copies of each drawing. Each drawing shall have a clear space for stamps. When phrase "by others" appears on Shop Drawings, the Contractor shall indicate on the Shop Drawing who is to furnish material or operations so marked before submittal. When the Shop Drawings are checked "revise and resubmit", the Contractor shall make corrections and submit new copies for review. The Shop Drawings shall contain the Contractor's "approval" and corrections.
 - 4.14.5.5 For use of all trades, the Contractor shall provide such number of Shop Drawings as is required for field distribution.
 - 4.14.5.6 The Design Consultant will review submittals and make marks to indicate corrections or revisions required and will stamp each submittal with an action stamp and will mark the stamp with the action required by the Contractor.

- 4.14.5.7 Contractor shall submit names of proposed Manufacturers, Material Suppliers, dealers, who are to furnish materials, fixtures, appliances or other fittings for approval as early as possible, to afford proper investigation and checking.
- 4.14.5.8 Transactions with manufacturers, or Subcontractors, shall be through Contractor.
- 4.14.5.9 Unless otherwise specified, Contractor shall submit samples in duplicate of adequate size showing quality, type, color range, finish, and texture as indicated in the Specifications.
- 4.14.5.10 Where Specifications require manufacturer's printed installation instructions, Contractor shall submit duplicate copies of such instructions for approval.
- 4.14.5.11 When several materials are specified by name for one use, Contractor shall select for use any of those so specified.
- 4.14.5.12 Whenever item or class of material is specified exclusively by trade name, manufacturer's name, or by catalogue reference, Contractor shall use only such item, unless written approval for substitution is secured, as outlined in the Specifications and in Section 4.15 of the General Conditions.
- 4.14.5.13 Contractor shall not order materials until receipt of written approval. Contractor shall furnish materials equal in every respect to approved samples.
- 4.14.6 By approving and submitting Shop Drawings, Product Data, Manuals and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Shop Drawings, which may be issued by the Design Consultant.
- 4.14.6.1 Parts and details not fully indicated on the Drawings shall be detailed by the Contractor in accordance with standard engineering practice. Dimensions on the Drawings, as well as detailed drawings themselves are subject in every case to measurements of existing, adjacent, incorporated and completed, which shall be taken by the Contractor before undertaking any Work dependent on such data.
- 4.14.7 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Design Consultant's review of Shop Drawings, Product Data, Samples or Manuals under Paragraph 2.2.14 unless the Contractor has specifically informed the Design Consultant in writing of such deviation at the time of submission and the Design Consultant has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility to Owner for errors or omissions in the Shop Drawings, Product Data, Samples, or Manuals by virtue of the Design Consultant's review or approval thereof.
- 4.14.8 The Contractor shall make corrections required by the Design Consultant and shall resubmit the required number of corrected copies of Shop Drawings or new Product Data or Samples. The Contractor shall direct specific attention, in writing on resubmitted Shop Drawings, Product Data or Samples or Manuals, to revisions other than those requested by the Design Consultant on previous submittals. Re-submittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time or an increase in the Contract Sum.

4.14.8.1 No portion of the Work requiring submission of Shop Drawings, Product Data, Samples or Manuals shall be commenced until the submittal has been approved by the Design Consultant as provided in Article 2. All such portions of the Work shall be in accordance with approved submittals.

4.14.9 Shop Drawings, Product Data and Samples shall be dated and shall bear the name of the Project; a description or the names or equipment, materials and items; and complete identification of locations at which materials or equipment are to be installed. Shop Drawings shall be stamped and signed stating that the Contractor has determined and verified all materials, field measurements, and field construction criteria related thereto and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.14.10 Submittals of Shop Drawings, Product Data, Samples or Manuals shall be accompanied by a transmittal letter, in duplicate, containing the name of the Project, the Contractor's name, the number of Shop Drawings, Product Data, Samples, or Manuals, identification of Specification section and other pertinent data.

4.15 EQUAL PRODUCTS AND SUBSTITUTIONS

4.15.1 All materials, supplies and articles furnished under the Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. The Contractor, in such cases, may with Owner's written approval, use any brand, make, manufacturer, article, device, product, material, fixture, form or type of construction which in the judgment of the Design Consultant is equal to that specified. An item may be considered equal to the item so named or described if, in the opinion of the Owner and Design Consultant (1) it is at least equal in quality, durability, appearance, strength, and design; (2) it will perform at least equally the specific function imposed by the general design for the Work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the Specifications. Approval by the Owner and Design Consultant will be granted based upon considerations of quality, workmanship, economy of operation, suitability for the purpose intended, warranty and acceptability for use on the Project.

4.15.2 To obtain such approval on makes or brands of material other than those specified in Contract Documents, and not previously approved at the time the Owner received bids for the construction of the Project, the Contractor's request for approval of any substitution shall include:

- .1 Complete data substantiating compliance of the proposed substitution with the Contract Documents;
- .2 Product identification including manufacturers' name, address, and phone number;
- .3 Manufacturer's literature showing complete product description, performance and test data, and all reference standards;
- .4 Samples and colors in the case of articles or products;

- .5 Names and addresses of similar projects on which the product was used and date of installation;
- .6 For construction methods, include a detailed description for the proposed method and drawings illustrating same;
- .7 Itemized comparison of proposed substitution with product or method specified and any cost reduction, which shall benefit the Owner;
- .8 Accurate cost data on proposed substitution in comparison with product or method specified;
- .9 All directions, specifications, and recommendations by manufacturers for installation, handling, storing, adjustment, and operation; and
- .10 Item by item comparison of characteristics of substitution item with those items specified.

4.15.3 The Contractor shall also submit with his request for approval a sworn and notarized statement which shall include all of the following representations by the Contractor, namely that:

- .1 He has investigated the proposed product or method and determined that it is equal or better in all respects to that specified and that it fully complies with all requirements of the Contract Documents;
- .2 He will meet all contract obligations with regard to this substitution;
- .3 He will coordinate installation of accepted substitutions into the Work, making all such changes and any required schedule adjustments, at no additional cost to the Owner, as may be required for the Work to be complete in all respects;
- .4 He waives all Claims for additional costs and additional time related to substitutions, which consequently become apparent. He also agrees to hold the Owner harmless from Claims for extra costs and time incurred by other Subcontractors and suppliers, or additional services which may have to be performed by the Design Consultant, for changes for extra work that may, at some later date, be determined to be necessary in order for the Work to function in the manner intended in the Contract Documents;
- .5 He will provide the same warranty and guarantee, and perform any work required in accordance therewith, for the substitution that is applicable to the specified item for which the substitution is requested;
- .6 Material will be installed, handled, stored, adjusted, tested, and operated in accordance with the manufacturers' recommendation and as specified in the Contract Documents.
- .7 In all cases new materials will be used unless this provision is waived by Notice from the Owner or his Design Consultant, or unless otherwise specified in the Contract Documents;
- .8 All material and workmanship will be in every respect in accordance with that which, in the opinion of the Owner or Design Consultant, is in conformity with approved modern practice; and

- .9 He has provided accurate cost data on the proposed substitution in comparison with the product or method specified.
- 4.15.4 Subject to the provisions of any applicable laws, approval for substitutions or equal products shall be at the sole discretion of the Owner, shall be in writing to be effective, and the decision of the Owner shall be final. The Owner or Design Consultant may require tests of all materials proposed for substitution so submitted to establish quality standards, at the Contractor's expense. After approval of a substitution, if it is determined that the Contractor submitted defective information or data regarding the substitution upon which Owner's approval was based, and that unexpected or unanticipated extensive redesign or rework of the Project will be required in order to accommodate the substitution, or that the substituted item will not perform or function as well as the specified item for which substitution was requested, the Contractor will be required to furnish the original specified item or obtain approval to use another substitution; the Contractor shall pay all costs, expenses or damages associated with or related to the unacceptability of such a substitution and the resultant utilization of another item and no time extension shall be granted for any delays associated with or related to such substitution.
- 4.15.5 If a substitution is approved, no further change in brand or make will be permitted unless satisfactory, written evidence is presented to and approved by the Owner that the manufacturer cannot make scheduled delivery of the approved substituted item. The Owner will not consider substitutions for approval if:
- .1 The proposed substitution is indicated or implied on the Contractor's Shop Drawing or product data submittal and has not been formally submitted for approval by the Contractor in accordance with the above-stated requirements, or
 - .2 Acceptance of the proposed substitution will require substantial design revisions to the Contract Documents or is otherwise not acceptable to the Owner and Design Consultant.
- 4.15.6 Except as otherwise provided for by the provisions of any applicable laws, the Contractor shall not have any right of appeal from the decision of the Owner rejecting any materials submitted if the Contractor fails to obtain the approval for substitution under this Article.
- 4.16 USE OF SITE
- 4.16.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, easements, right-of-way agreements and within the limits of construction as shown on the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the Owner, with any materials, equipment or trailers nor shall he block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or properties, storage areas, areas of other facilities that are adjacent to the worksite. If the Contractor fails or refuses to move said material, equipment or trailers within twenty four (24) hours of notification by the Owner, to so do, the Owner shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the Owner deems are in violation of this Paragraph.
- 4.16.2 The Project, as school property, may attract children and unauthorized personnel. Contractor shall take all necessary precautions to secure the Project and his Work to prevent injury and to discourage entry onto the Project by children and unauthorized personnel.
- 4.16.3 Unless specifically authorized or shown in the plans and specifications for the Project, the Contractor shall not use Owner's facilities and shall plan and schedule its Work so as to not

interrupt or interfere with school operations or activities.

- 4.16.4 The Contractor shall maintain streets, parking areas and sidewalks around the Project site free from any materials or debris resulting from the Work. The Contractor shall remove all spillage and tracking of materials arising from the performance of the Work from such areas and any other affected areas, and shall establish a regular maintenance program of sweeping and hosing to minimize accumulation of dirt, dust and materials upon such areas.
- 4.16.5 Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that at all times the Work is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the Project site and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent of the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.
- 4.16.6 Without limitation of any other provision of the Contract Documents, the Contractor shall minimize any interference with the occupancy or beneficial use of any areas, buildings or facilities on or adjacent to the site of the Work which are occupied or are being used by Owner. To the extent that owner allows Work to be performed in or around occupied buildings or facilities that are not within the limits of construction, it shall be scheduled to be performed at night, during weekends or holidays at no additional cost to Owner, and the facility or building shall be clean and ready for Owner's use during Owner's hours of normal operation. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by the Owner.
- 4.16.7 The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner, which may be withheld in the sole discretion of the Owner.
- 4.16.8 The Contractor shall comply with all insurance requirements applicable to use and occupancy of the Project site or any buildings on the Project site.
- 4.17 CUTTING AND PATCHING OF WORK
- 4.17.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly and in accordance with the Contract Documents.
- 4.17.2 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any Separate Contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any Separate Contractor except with the written consent of the Owner and of such Separate Contractor. The Contractor shall not unreasonably withhold from the Owner or any Separate Contractor his consent to cutting or otherwise altering the Work. The Owner shall not be required to accept work with a cut, splice, or patch when such cut, splice or patch is not generally accepted practice for the particular work involved or is otherwise unworkmanlike in the opinion of the Design Consultant or the Owner.

- 4.17.3 Existing structures and facilities including but not limited to building, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to satisfaction of the Design Consultant and the Owner of such structures and facilities and authorities having jurisdiction. In event the local jurisdictional authorities require that such repairing and patching be done with their own labor and materials, the Contractor shall abide by such regulations and pay for such work with no increase in the Contract Sum.
- 4.18 CLEANING UP
- 4.18.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work and before final payment is made, he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials.
- 4.18.2 If the Contractor fails to clean up during or at the completion of the Work, the Owner may do so as provided in Section 6.3 and the cost thereof shall be charged to the Contractor.
- 4.19 COMMUNICATIONS
- 4.19.1 All communications from the Contractor relating to the Contract Documents or the construction schedule will be directed to the Design Consultant and copied to the Owner. Similarly, all correspondence from the Owner or Design Consultant will be directed to the Contractor and copied to the Owner or Design Consultant.
- 4.20 ROYALTIES AND PATENTS
- 4.20.1 The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights arising out of the Work and shall save the Owner harmless from loss on account thereof. The Contractor shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Design Consultant. However, if the infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss, unless the information is promptly furnished to the Design Consultant.
- 4.21 INDEMNIFICATION
- 4.21.1 To the fullest extent permitted by law, the Contractor shall, at its sole cost and expense, indemnify, defend, and hold harmless the Owner and its agents, representatives, and employees from and against all claims, actions, judgments, costs, liabilities, penalties, damages, losses and expenses, including but not limited to attorneys' fees, arising out of and/or resulting from the performance of the Work, provided that any such claim, action, judgment, cost, liability, penalty, damage, loss or expense is caused by any negligent act, error or omission of the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be legally liable. The above obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section 4.21.1. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N.C. Gen. Stat. § 6-21.2. The parties also specifically acknowledge that the Owner is a public body and it is the

intent of the parties that the Owner not incur any expenses when the Contractor is solely responsible for the claims.

4.21.2 In any and all claims against the Owner or the Design Consultant or any of their agents, representatives, or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 4.21 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

4.21.3 No provision of this Section 4.21 shall give rise to any duties on the part of the Design Consultant or the Owner, or any of their agents, representatives, or employees.

4.22 PERSONS AUTHORIZED TO SIGN DOCUMENTS

4.22.1 The Contractor, within five (5) days after the earlier of the date of a Notice to Proceed or the date of the Owner-Contractor Agreement, shall file with the Owner a list of all persons who are authorized to sign documents such as contracts, certificates, and affidavits on behalf of the Contractor and to fully bind the Contractor to all the conditions and provisions of such documents, except that in the case of a corporation he shall file with the Owner a certified copy of a resolution of the Board of Directors of the corporation in which are listed the names and titles of corporation personnel who are authorized to sign documents on behalf of the corporation and to fully bind the corporation to all the conditions and provisions of such documents.

4.23 CONDITIONS AFFECTING THE WORK

4.23.1 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions that can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, Multi-Prime Contract conditions, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of his responsibilities under the Contract Documents and shall not constitute a basis for an adjustment in the Contract Sum or the Contract Time under any circumstances. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of his officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

4.23.2 If in the execution of the Work any valuable items or materials of any kind are discovered buried or hidden within the Work, such items or materials shall be the property of the Owner. The Contractor shall take reasonable precautions to prevent any persons from removing or damaging such items or materials and shall immediately upon discovery thereof and before removal, acquaint the Owner or the Design Consultant with such discovery and carry out, at the expense of the Owner, the Owner's or the Design Consultant's orders as to disposal of the same.

4.24 COMPLIANCE WITH BOARD POLICIES AND PROCEEDURES

The Contractor acknowledges that Board policies are available for review at the Owner's website (<https://www.dpsnc.net>) and agrees to comply with the policies. If during the performance of the Work the Contractor finds compliance of any portion of Board policies to be impracticable, the Contractor shall immediately notify the Owner in writing setting forth the problems of such compliance and suggesting alternatives through which the same results intended by such portions of the Board policies can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives, or require compliance with the existing requirements of the Board policies. The Contractor also agrees to comply with the following provisions:

- 4.24.1 The Contractor, its Subcontractors and employees shall not possess or carry, whether openly or concealed, any gun, rifle, pistol, or explosive on any property owned by the Owner. This includes firearms locked in containers, vehicles or firearm racks within vehicles. The Contractor, its Subcontractors and employees shall not cause, encourage or aid a minor, who is less than 18 years old to possess or carry, whether openly or concealed, any weapons on any property owned by the Owner.
- 4.24.2 The Contractor, its Subcontractors and employees, are prohibited from profane, lewd, obscene or offensive conduct or language, including engaging in sexual harassment.
- 4.24.3 The Contractor and its Subcontractors shall not manufacture, transmit, conspire to transmit, possess, use or be under the influence of any alcoholic or other intoxicating beverage, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or anabolic steroids, or possess, use, transmit or conspire to transmit drug paraphernalia on any property owned by the Owner.
- 4.24.4 The Contractor and its Subcontractors may not at any time use or display tobacco or nicotine-containing products, including but not limited to electronic cigarettes (e-cigarettes), on the Owner's property, including indoor, outdoor and in a vehicle. The prohibition of the display of tobacco or nicotine products shall not extend to a display that has a legitimate instructional or pedagogical purpose. For purposes of this Contract, "tobacco product" is defined to include cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snuff, and any other items containing or reasonably resembling tobacco, tobacco products, or any facsimile thereof. "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.
- 4.24.5 The Contractor, its Subcontractors and employees shall not solicit from or sell to students or staff within the Owner's facilities or campuses, and shall not give gifts of any value to school system employees.
- 4.24.6 Operators of all commercial vehicles on any property owned by the Owner shall be subject to post-accident, random, reasonable suspicion and follow-up testing for drugs and alcohol.
- 4.24.7 The Contractor, its Subcontractors and employees are prohibited from using access to the site pursuant to this Agreement as a means to date, court, or enter into a romantic or sexual relationship with any student enrolled in the Owner's schools. The Contractor agrees to

indemnify the Owner for claims against the Owner resulting from relationships which have occurred or may occur between a student and an employee of the Contractor or Subcontractor.

4.24.8 Lunsford Act/Criminal Background Checks. The Contractor shall conduct at its own expense sexual offender registry checks on each of its owners, employees, agents, or Subcontractors (“contractual personnel”) who will engage in any service on or delivery of goods to school system property or at a school-system sponsored event, except checks shall not be required for individuals who are solely delivering or picking up equipment, materials, or supplies at: (1) the administrative office or loading dock of a school; (2) non-school sites; (3) schools closed for renovation; or (4) school construction sites.. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry (“the Registries”). For the Contractor’s convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at [http:// www.nsopw.gov/](http://www.nsopw.gov/). The Contractor shall provide certification that the registry checks were conducted on each of its contractual personnel providing services or delivering goods under this Agreement prior to the commencement of such services or the delivery of such goods. The Contractor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, Contractor agrees to conduct the registry checks and provide a supplemental certification before any additional contractual personnel are used to deliver goods or provide services pursuant to this Agreement. Contractor further agrees to conduct annual registry checks of all contractual personnel and provide annual certifications at each anniversary date of this Agreement. Contractor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. Contractor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the school system upon request. Contractor specifically acknowledges that the school system retains the right to audit these records to ensure compliance with this Section at any time in the school system’s sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Agreement. In addition, the Owner may conduct additional criminal records checks at the Owner’s expense. If the school system exercises this right to conduct additional criminal records checks, Contractor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system for all contractual personnel who may deliver goods or perform services under this Agreement. Contractor further agrees that it has an ongoing obligation to provide the school system with the name of any new contractual personnel who may deliver goods or provide services under the Agreement. The Owner reserves the right to prohibit any contractual personnel of Contractor from delivering goods or providing services under this Agreement if the Owner determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others.

4.24.9 Contractor shall not employ any individuals to provide services to the Owner who are not authorized by federal law to work in the United States. Contractor represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Agreement. Contractor shall also ensure that any of its Subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted

services in connection with this Agreement. Contractor is responsible for providing affordable health care coverage to all of its full-time employees providing services to the School System. The definitions of “affordable coverage” and “full-time employee” are governed by the Affordable Care Act and accompanying IRS and Treasury Department regulations.

- 4.24.10 The Contractor, its Subcontractors and employees shall not interact with any students. Nothing in Paragraph 4.24 shall be construed to prevent the Contractor, its Subcontractors and employees from taking necessary measures to protect students, staff or other employees.
- 4.24.11 The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the task assigned to it. The Owner may require the Contractor to remove any employee the Owner deems incompetent, careless or otherwise objectionable.
- 4.24.12 All agents and workers of the Contractor and its Subcontractors shall wear identification badges provided by the Contractor at all times they are on the Owner’s property. The identification badges shall at a minimum display the company name, telephone number, employee name and a picture of the employee.
- 4.24.13 The Contractor shall comply with the Owner’s site or school building access procedures when working on any existing school campus.
- 4.24.14 Anti-Nepotism. The Contractor warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Agreement are immediate family members of any member of the Owner’s Board of Education or of any principal or central office staff administrator employed by the Owner. For purposes of this provision, “immediate family” means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Contractor become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Agreement, Contractor shall immediately disclose the family relationship in writing to the Superintendent. Unless formally waived by the Owner, the existence of a family relationship covered by this Agreement is grounds for immediate termination by Owner without further financial liability to Contractor.
- 4.24.15 Restricted Companies Lists. Contractor represents that as of the date of this Agreement, Contractor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Contractor also represents that as of the date of this Agreement, Contractor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.
- 4.24.16 The Contractor agrees not to discriminate against any employee, applicant for employment, or subcontractor because of physical or mental handicap. The Contractor also agrees not to discriminate against any employee, applicant for employment, or subcontractor because of race, color, religion, sex, gender identification or national origin.
- 4.24.17 Use of Drones. The Contractor acknowledges that it must obtain a signed written consent form from the Superintendent or designee to operate any and all aerial drones on the Owner’s property. Drones shall be operated in accordance with the Owner’s policy and all applicable

Federal Aviation Administration (FAA) regulations and North Carolina Department of Transportation (NCDOT) Division of Aviation requirements. Any request to operate a drone must be submitted to the Superintendent or designee in advance of the desired flight time and provide the following: the name(s) of the drone pilot and any individuals participating, proof of insurance coverage for the drone, proof of any required FAA permit, proof of any required NCDOT permit, and a detailed flight plan to include specific time and specific location.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor may be referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term Subcontractor does not include any Separate Contractor or his subcontractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site or who contracts to perform or supply any of the Work under the scope of a Subcontractor's subcontract. The term Sub-subcontractor may be referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

5.1.3 Nothing contained in the Contract Documents is intended to, nor shall it create, any contractual relationship between the Owner, the Design Consultant, or any of their agents, consultants, employees, independent contractors, or representatives and any Subcontractor, Sub-subcontractor, Supplier or Vendor of the Contractor, except the relationship between Owner and Contractor, but the Owner shall be entitled to performance of all obligations intended for his benefit, and to enforcement thereof.

5.1.4 The Owner and Design Consultant will not deal directly with any Subcontractor, Sub-subcontractor or Material Supplier. Communication will be made only through the Contractor. Subcontractor, Sub-subcontractors or Material Suppliers shall route requests for information or clarification through the Contractor to the Design Consultant.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 The Contractor, in compliance with the requirements of the Contract Documents and within ten (10) days after the Notice to Proceed, shall furnish in writing to the Owner the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner to reply within a reasonable time shall constitute notice of no reasonable objection. The Contractor understands and agrees that no contractual agreement exists for any part of the Work under this Contract between the Owner and any of the Contractor's Subcontractors or Sub-subcontractors. Further, the Contractor understands and agrees that he alone is responsible to the Owner for the Work under this Contract and that any review of Subcontractors or Sub-subcontractors by the Owner will not in any way make the Owner responsible to any

Subcontractor, nor responsible for the actions or failures of any Subcontractor or Sub-subcontractor.

- 5.2.1.1 The Contractor shall identify in the list of names of the Subcontractors proposed, those Subcontractors that are Historically Underutilized Businesses (HUB's) and indicate the portion of the Work that each Subcontractor will perform.
- 5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner has made reasonable objection under the provisions of Paragraph 5.2.1. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.
- 5.2.3 If the Owner has reasonable objection to any proposed person or entity under Paragraph 5.2.1, the Contractor shall name a substitute to whom the Owner has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued, subject to an audit of said difference by the Owner; provided, however, that no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting names as required by Paragraph 5.2.1 and the original proposed Subcontractor was: (i) able to carry out his work under his proposed subcontract, (ii) able to comply with all applicable laws, (iii) was an ongoing business in the field of his proposed subcontract, and (iv) had a labor force, capital and a means of supply compatible with the scope of his proposed subcontract.
- 5.2.4 If the Owner requires a change of any proposed Subcontractor or person or organization previously accepted by him on the Project, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued, subject to an audit by Owner.
- 5.2.5 The Contractor shall notify the Owner and the Design Consultant of any substitution for any Subcontractor identified in accordance with Subparagraph 5.2.1.1. The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner or the Design Consultant makes reasonable objection to such substitution. Also, Contractor may make no substitution of Subcontractors in violation of applicable law.
- 5.2.6 If during the duration of the Project, the Contractor effects a substitution for any Subcontractor per Paragraph 5.2.5, or if additional subcontract opportunities become available, the Contractor shall make a good faith effort to utilize Historically Underutilized Businesses (HUB's).

5.3 SUBCONTRACTUAL RELATIONS

- 5.3.1 By an appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Contract Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the agreement between the Contractor and Subcontractor, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of the Contract

Documents to which the Subcontractor will be bound by this Section 5.3, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Contract Documents available to his Sub-subcontractors.

5.3.2 The provisions herein regarding Subcontractor approvals shall in no way affect the liability of the Contractor to the Owner regarding performance of all obligations by or payment of Subcontractors. Approval to subcontract with any given Subcontractor shall not to any degree relieve the Contractor of his obligation to perform or have performed to the full satisfaction of the Owner the Work required by this Contract.

5.3.3 The Contractor shall submit Notice to the Owner of any Claims by Subcontractors for which the Owner is believed to be responsible, in strict conformance with the same time requirements and other procedures established for the submission of the Contractor's Claims to the Owner.

5.4 QUALIFICATION SUBMITTALS

5.4.1 Specific qualification submittals may be required of Subcontractors, installers and suppliers for certain critical items of the Work. Required qualification submittals are set forth in detail in the Specifications and shall be collected and submitted by the Contractor for review and approval by the Design Consultant. All information required of a single Subcontractor, installer or supplier shall be contained in a single, complete submittal. The Contractor shall submit the required qualification information within ten (10) days after receipt of the Design Consultant's request.

5.4.2 The Owner and Design Consultant shall reject any proposed Subcontractor, installer or supplier, or any qualification submittals related thereto, for the following reasons:

(i) The Contractor's failure to submit requested information within the specified time; or

(ii) The Contractor's failure to provide all of the requested information; or

(iii) The Contractor's submission of a Subcontractor, installer or supplier, or qualifications thereof, which are unacceptable in the judgment of the Owner or Design Consultant.

5.4.3 Should the Owner or Design Consultant have reasonable objection to any proposed Subcontractor, installer or supplier, the Contractor shall submit another person or firm who are reasonably acceptable to the Owner and Design Consultant.

5.5 PREPARATORY WORK

5.5.1 Before starting a portion of the Work, the Contractor and the responsible Subcontractor shall carefully examine all preparatory work that has been executed to receive his work. The Subcontractor shall check carefully, by whatever means are required, to ensure that his work and adjacent related work will finish to proper contours, planes and levels. He shall promptly notify the Contractor and the Design Consultant of any defects or imperfections in preparatory work, which will, in any way, affect satisfactory completion of his work. Absence of such notification will be construed as an acceptance of preparatory work and later Claims of defects therein will not be recognized.

5.5.2 Under no conditions shall a portion of the Work proceed prior to preparatory work having been completed, cured, dried, and otherwise made satisfactory to receive such related work.

Responsibility for timely installation of all materials rests solely with the Contractor, who shall maintain coordination control at all times.

ARTICLE 6

WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar conditions of the Contract.

6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford Separate Contractors and the Owner reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate the Work with that of the Owner and other contractors to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the Work as will not unduly or unreasonably interfere with the progress of the Work or the work of any other contractors.

6.2.1.1 If the execution or result of any part of the Work depends upon any work of the Owner or of any Separate Contractor, the Contractor shall, prior to proceeding with the Work, inspect and promptly report to the Owner in writing any apparent discrepancies or defects in such work of the Owner or of any Separate Contractor that render it unsuitable for such proper execution or result of any part of the Work.

6.2.1.2 Failure of the Contractor to so inspect and report shall constitute an acceptance of the Owner's or Separate Contractor's work as fit and proper to receive the Work, except as to defects which may develop in the Owner's or Separate Contractor's work after completion of the Work and which the Contractor could not have discovered by its inspection prior to completion of the Work.

6.2.2 Should the Contractor cause damage to the Work or property of the Owner or of any Separate Contractor on the Project, or to other work on the site, or delay or interfere with the Owner's work on ongoing operations or facilities or adjacent facilities or said Separate Contractor's work, the Contractor shall be liable for the same; and, in the case of another contractor, the Contractor shall attempt to settle said Claim with such other contractor prior to such other contractor's institution of litigation or other proceedings against the other contractor.

6.2.2.1 Should a Separate Contractor be declared in default by the Owner, the Owner shall not be obligated to hire a contractor to perform the work of the Separate Contractor during the time the Separate Contractor's surety is remedying the default pursuant to Paragraph 3.4.2.

6.2.2.2 If such Separate Contractor sues the Owner or Design Consultant on account of any damage, delay or interference cause or alleged to have been caused by the Contractor, the Owner shall

notify the Contractor, who shall defend the Owner and Design Consultant in such proceedings at the Contractor's expense. If any judgment or award is entered against the Owner or Design Consultant in such proceedings, the Contractor shall satisfy the same and shall reimburse the Owner and Design Consultant for all damages, expenses, attorney's fees and other costs which the Owner or Design Consultant incurs as a result thereof.

6.2.3 Should a Separate Contractor cause damage to the Work or to the property of the Contractor or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said Separate Contractor any Claims it may have as a result of such damage, delay or interference (with an information copied to the Owner) and shall attempt to settle its Claim against said Separate Contractor prior to the institution of litigation or other proceedings against said Separate Contractor.

6.2.3.1 In no event shall the Contractor seek to recover from the Owner or the Design Consultant, and the Contractor hereby waives any Claims against the Owner and Design Consultant relating to any costs, expenses (including, but not limited to, attorney's fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any Separate Contractor.

6.2.4 Whenever Contractor receives items from another contractor or from Owner for storage, erection or installation, the Contractor receiving such items shall give receipt for items delivered, and thereafter will be held responsible for care, storage and any necessary replacing of item or items received.

6.2.5 When certain items of equipment and other work are indicated as "NIC" (not in contract), or to be furnished and installed under other contracts, any requirements set forth in the Contract Documents for preparation of openings, provision of backing, etc., for receipt of such "NIC" work will be furnished upon written request of the Contractor who shall properly form and otherwise prepare his work in a satisfactory manner to receive such "NIC" work.

6.3 OWNER'S RIGHT TO PERFORM DISPUTED WORK

6.3.1 If a dispute arises between the Contractor and Separate Contractors as to their responsibility for cleaning up as required by Section 4.18 or for accomplishing coordination or doing required cutting, filling, excavating or patching as required by Section 4.17, the Owner may carry out such work and charge the cost thereof to the responsible party as the Owner shall determine to be just.

6.4 COORDINATION OF THE WORK

6.4.1 By entering into this Contract, Contractor acknowledges that there may be other contractors on the site whose work will be coordinated with that of his own. Contractor expresses, warrants and guarantees that he will cooperate with other contractors and will do nothing to delay, hinder or interfere with the work of other Separate Contractors, the Owner or Design Consultant. Contractor also expressly agrees that, in the event his work is hindered, delayed, interfered with or otherwise affected by a Separate Contractor, his sole remedy will be a direct action against the Separate Contractor as described in this Article 6. Contractor will have no remedy, and hereby expressly waives any remedy, against the Owner and/or the Design Consultant on account of delay, hindrance, interference or other event caused by a Separate Contractor.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

7.1.1 This Contract shall be governed by the laws of the State of North Carolina. The Contractor and Owner agree that Durham County, North Carolina shall be the proper venue for any litigation arising out of this Contract.

7.1.2 Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly or fully inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

7.2 SUCCESSORS AND ASSIGNS

7.2.1 The Owner and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the previous written consent of the Owner and the Contractor's Surety.

7.3 CLAIMS AND DAMAGES

7.3.1 Should the Contractor, Subcontractor or any Sub-subcontractor suffer injury or damage to person or property because of any act or omission of the Owner or Design Consultant, or of any of their employees, agents or others for whose acts either is legally liable, the Claim on behalf of the Contractor its Subcontractors or Sub-subcontractors shall be made by giving Notice to the Owner, as provided in Article 15 ; otherwise, the Contractor, Subcontractors and Sub-subcontractors shall have waived any and all rights he may have against the Owner or the Design Consultant, or their employees, representatives and agents. The Contractor shall indemnify, defend and hold the Owner harmless from any Claim by a Subcontractor that is waived because it is not filed in strict conformance with this Paragraph or any other provision of the Contract regarding Claims.

7.4 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

7.4.1 The Contractor shall furnish bonds covering the faithful performance of the Contract and the payment of all obligations arising thereunder in a form and with a Surety satisfactory to the Owner.

7.4.2 The Contractor is required to furnish in duplicate a Performance Bond and a Labor and Material Payment Bond, each in the amount of one hundred percent (100%) of the Contract Sum, written by a surety company licensed to do business in North Carolina and with a minimum AM Best "A" rating or comparable rating from another service reasonably acceptable to Owner.

7.5 RIGHTS AND REMEDIES

- 7.5.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 7.5.2 Except as may be specifically agreed in writing, the failure of the Owner or the Design Consultant to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provisions or right(s) or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.
- 7.5.3 The Contractor agrees that he can be adequately compensated by money damages for any breach of the Contract which may be committed by the Owner and hereby agrees that no default, act, or omission of the Owner or the Design Consultant, except for failure to make progress payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of the Contract or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which he might otherwise be or become entitled, save only his right to money damages.

7.6 TESTS AND INSPECTIONS

- 7.6.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the Owner and Design Consultant timely Notice of its readiness so the Design Consultant and the Owner may observe such inspection, testing or approval. Unless otherwise specifically provided in the Contract Documents, the Contractor shall bear all costs of such inspections, tests or approvals, except that Owner shall pay for “special inspections” as defined and required in Section 1704, the North Carolina State Building Code, or successor section. In the event that such “special inspections” reveal a failure of the Work to comply with the Contract Documents or applicable laws, ordinances, regulations or orders of public authorities having jurisdiction, Contractor shall reimburse the Owner for the costs of such “special inspections”.
- 7.6.1.1 Unless otherwise stipulated in the Contract Documents, the Contractor shall pay for all utilities required for testing of installed equipment of all of his work and work of each Subcontractor. Boiler fuel other than gas shall be provided by Subcontractor furnishing boilers. Labor and supervision required for making such tests shall be provided at no additional cost to the Owner.
- 7.6.2 If the Design Consultant or the Owner determines that any portion of the Work requires additional inspection, testing, or approval which Paragraph 7.6.1 does not include, the Owner will instruct the Contractor to order such additional inspection, testing or approval, and the Contractor shall give Notice as provided in Paragraph 7.6.1. If such additional inspection or testing reveals a failure of any portion of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Design Consultant's and Owner's additional construction management expenses made necessary by such failure.
- 7.6.3 With regard to inspections and tests, the costs of which the Owner is responsible for paying, they will be made by a pre-qualified, independent testing agency selected by the Owner. The cost of the initial services of such agency will be paid by the Owner. When the initial tests

indicate non-compliance with the Contract Documents, any subsequent testing occasioned by non-compliance shall be performed by the same agency and the cost thereof shall be borne by the Contractor. Representatives of the testing agency shall have access to the Work at all times. The Contractor shall provide facilities for such access in order that the agency may properly perform its functions.

7.6.4 The independent testing agency, contracted by the Owner, shall prepare the test reports, logs, and certificates applicable to the specific inspections and tests and promptly deliver the specified number of copies to the designated parties. Certificates of inspection, testing or approval required by public authorities shall be secured by the Contractor and promptly delivered by him to the Owner, in adequate time to avoid delays in the Work or final payment therefore.

7.6.5 If the Design Consultant or the Owner is to observe the inspections, tests or approvals required by the Contract Documents, laws, ordinances, rules, regulations, or order of any public authority having jurisdiction or that are required to establish compliance with the Contract Documents, he will do so promptly and, where practicable, at the normal place of testing.

7.6.6 The Contractor shall pay for and have sole responsibility for inspections or testing performed exclusively for his own convenience.

7.7 UNENFORCEABILITY OF ANY PROVISION

7.7.1 If any provision of this Contract is held as a matter of law to be unenforceable or unconscionable, the remainder of the Contract shall be enforceable without such provision.

7.8 ATTORNEYS' FEES AND OTHER EXPENSES

7.8.1 The Contractor hereby agrees that he will not submit, assert, litigate or otherwise pursue any frivolous or unsubstantiated Claims or Claims he has specifically waived under the terms of the Contract Documents. In the event that the Contractor's or its Subcontractor's or Sub-subcontractor's Claims, or any separate item of a Claim, is without substantial justification, the Contractor shall reimburse the Owner or Design Consultant for all costs and expenses associated with defending such Claim or separate item, including but not limited to, attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, or services and any other consultant costs.

7.8.2 If the Contractor breaches any obligation under the Contract Documents, the Contractor shall reimburse the Owner and Design Consultant for all costs and expenses incurred by the Owner relating to such breach, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.

7.8.3 If the Owner or Design Consultant substantially prevails in a Claim brought against the Contractor, or in defending a Claim brought by the Contractor, including but not limited to, Claims for fraud or misrepresentation, overpayment, defective work, delay damages, and recovery of termination expenses, the Contractor shall reimburse the Owner and/or Design Consultant for all costs and expenses incurred by them relating to such Claim, including but not limited to attorneys' fees, audit costs, accountants' fees, expert witness' fees, additional Design Consultant expenses, additional construction management expenses, and any other consultant costs.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Final Completion of the Work as defined in Paragraph 8.1.4, including authorized adjustments thereto. The Contractor shall achieve Final Completion within the Contract Time.

8.1.2 The date of commencement of the Work is the date established in the Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein. The Contractor shall not commence work or store materials or equipment on site until written Notice to Proceed is issued or until the Contractor otherwise receives the Owner's written consent.

8.1.3 The date of Substantial Completion of the Work or designated portion thereof is the date certified by the Design Consultant and the Owner when the Work or a designated portion thereof is sufficiently complete, in accordance with the Contract Documents, so the Owner can fully and legally occupy and utilize the Work or designated portion thereof for the use for which it is intended, with all of the parts and systems operable as required by the Contract Documents, including a preliminary test and balance report for the mechanical system. Only incidental corrective work and any final cleaning beyond that needed for the Owner's full use may remain for Final Completion. The Contractor acknowledges and agrees that the intercom, telephone, data security, building automation system (including functional graphics at the site), MATV, and other educational operational systems are required for the Owner's use of the building for its intended purpose. The Contractor shall provide operation and maintenance manuals to the Owner as required by the Contract Documents prior to Substantial Completion and shall provide the required training on the operation of the equipment and systems within two weeks of Substantial Completion. The Contractor shall achieve Substantial Completion by the date specified in the Supplemental Conditions including authorized adjustments thereto. The Owner's occupancy of incomplete work shall not alter the Contractor's responsibilities pursuant to this paragraph. Only incidental corrective work and any final cleaning beyond that needed for the Owner's full use may remain for Final Completion. The issuance of a temporary or final certificate of occupancy shall not, in itself, constitute Substantial Completion.

8.1.4 Final Completion of the Work occurs on the date certified by the Design Consultant and the Owner when the Work is totally complete, to include punch list work, in accordance with the Contract Documents and the Owner may fully occupy and utilize the Work for the use for which it is intended. The issuance of a temporary or final certificate of occupancy shall not, in itself, constitute Final Completion.

8.1.5 The term Day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated. All dates shall mean midnight of the indicated day unless otherwise stipulated.

8.1.6 Completion Dates shall mean the dates set forth in the Supplemental Conditions for Substantial Completion and Final Completion.

8.2 PROGRESS AND COMPLETION

- 8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract with respect to the Contractor's performance.
- 8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Paragraph 8.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion and Final Completion within the time frames stated in the Contract Documents.
- 8.2.3 Attention is directed to the fact that the Work is urgently needed by the Owner; for this reason, it shall be agreed that the Contractor and its Subcontractors will achieve Substantial Completion of the Work under the Contract within the time established under Paragraph 8.2.4 of the Supplemental Conditions after award of Contract, or Notice to Proceed, and that he will achieve Final Completion of the Work in all its details for final acceptance within the time established under Paragraph 8.2.4 of the Supplemental Conditions.
- 8.2.4 The Owner reserves the right to withhold the issuance of Notice to Proceed by up to forty-five (45) days. For each day that Notice to Proceed is withheld pursuant to this Subparagraph, the dates established for Substantial Completion and Final Completion shall be adjusted. The contractor shall not be entitled to additional compensation if the owner withholds the issuance of Notice to Proceed pursuant to this Subparagraph.

8.3 DELAYS AND EXTENSIONS OF TIME

- 8.3.1 The time during which the Contractor or any of the Subcontractors is delayed in the performance of the Work by the issuance of any required permits, acts of god, excessive inclement weather, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes, or other conditions beyond the Contractor's or the Subcontractors' control and which the Contractor or the Subcontractors could not reasonably have foreseen and provided against, except for delays caused solely by the Owner, Design Consultant or their consultants, shall be added to the time for completion of the Work stated in the Contract. Neither the Owner nor the Design Consultant shall be obligated or liable to the Contractor or the Subcontractors for indirect or direct damages, costs or expenses of any nature which the Contractor, the Subcontractors, or any other person may incur as a result of any of the delays, interferences, changes in sequence in the Work included in this Section 8.3.1. The Contractor hereby expressly waives any Claims against the Owner and the Design Consultant on account of any indirect or direct damages, lost profits, costs or expenses of any nature which the Contractor, the Subcontractors or any other person may incur as a result of any delays, interferences, changes in sequence or the like, and it is understood and agreed that the Contractor's sole and exclusive remedy in any such events shall be an extension of the Contract time in accordance with the Contract Documents.
- 8.3.2 In the event Project delays arise from or out of any act or omission of the Owner, Design Consultant or their consultants, the time during which the Project is delayed shall be added to the Contract and the Contractor may be reimbursed for its direct Project damages, excluding general overhead expenses and indirect costs, if the Contractor strictly complies with this Article 8.3. Notwithstanding the previous sentence, if the Contractor or Subcontractor in any way shares in responsibility for the delay, neither the Owner nor the Design Consultant shall be obligated or liable to the Contractor or the Subcontractors for indirect or direct damages, costs or expenses of any nature which the Contractor, the Subcontractors, or any other person may incur as a result of any of the delays, interferences, changes in sequence of the Work, and the Contractor's sole remedy, if any, shall be an extension of the Contract time.

- 8.3.3 In the event Project delays arise solely from or out of any act or omission of the Contractor, Subcontractors or their agents, the Contractor shall not be entitled to extension of the Contract time and shall be subject to the payment of Liquidated Damages as provided in this Contract.
- 8.3.4 The Contract time shall be adjusted only for changes pursuant to section 12.1, suspension of the Work pursuant to paragraph 3.3.2 or paragraph 3.3.3, and excusable delays pursuant to paragraph 8.3.4. In the event the Contractor requests an extension of the Contract time or files a Claim related to any form of delay, it shall furnish such justification and supporting evidence as the Owner may deem necessary for a determination of whether or not the Contractor is entitled to an extension of time under the provisions of the Contract, and shall further conform to all of the requirements of the specifications and the Contract regarding construction schedules and reports. The burden of proof to substantiate a Claim shall rest with the Contractor, including evidence that the cause was beyond its control. The Owner shall base its findings of fact and decision on such justification and supporting evidence, including a finding that the alleged delay impacted the Project's critical path, and shall advise the Contractor in writing thereof. If the Owner finds that the Contractor is entitled to any extension of the Contract time, the Owner's determination of the total number of days of extension shall be based upon the currently approved progress schedule and on all data relevant to the extension. Such data will be incorporated into the schedule in the form of a revision thereto, accomplished in a timely manner. The Contractor acknowledges and agrees that actual delays (due to said changes, suspension of Work or excusable delays) in activities which, according to the schedule, do not affect the Contract time, do not have any effect upon the Contract time and therefore will not be the basis for a change therein. The Contractor acknowledges and agrees that time extensions will be granted only to the extent that excusable delays exceed the available float in the critical path activities in the Contractor's currently approved schedule.
- 8.3.4.1 Extensions in the Contract time by Change Orders are subject to extension-in-time audit by the Owner as follows:
- 8.3.4.1.1 The Contractor agrees that, even though the Owner, Contractor and Design Consultant have previously signed a Change Order containing an extension-in-time resulting from a change in or addition to the Work that said extension in the Contract time may be adjusted by an audit after the fact by the Owner. If such an audit is to be made, the Owner must undertake the audit and make a ruling within thirty (30) days after the completion of the Work under the Change Order.
- 8.3.4.1.2 The Contractor agrees that any extension of the Contract time to which it is entitled arising out of a Change Order undertaken on a force accounting (labor and materials) basis, shall be determined by an extension-in-time audit by the Owner after the Work of the Change Order is completed. Such rulings shall be made by the Owner within thirty (30) days after a request for same is made by the Contractor or Design Consultant, except said thirty (30) days will not start until the Work under the Change Order is completed.
- 8.3.4.1.3 Should a time extension be granted for Substantial Completion the date for Final Completion shall be appropriately adjusted unless specifically stated otherwise.
- 8.3.4.2 Subject to other provisions of the Contract, the Contractor may be entitled to an extension of the Contract time (but no increase in the Contract sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, the Subcontractors or suppliers as follows:

- 8.3.4.2.1 Labor disputes and strikes (including strikes affecting transportation), that do, in fact, directly delay the progress of the Work on the critical path; however, an extension of Contract time on account of an individual labor strike shall not exceed the number of days of said strike;
- 8.3.4.2.2 Acts of nature: tornado, fire, hurricane, blizzard, earthquake, or flood that damage Work in place or stored materials or adversely impact the schedule's critical path;
- 8.3.4.2.3 Excessive inclement weather; however, the Contract time will not be extended due to reasonably anticipated inclement weather or for delays in the aftermath of inclement weather, reasonably anticipated or excessive. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be available for construction out-of-doors; for the purposes of this Contract, the Contractor agrees that the number of calendar days per month based on a five-year average shall be considered reasonably anticipated inclement weather and planned for in the construction schedule per the Contract. Unless the Contractor can substantiate to the satisfaction of the Owner that there was greater than the reasonably anticipated inclement weather considering the time from the notice-to-proceed until the building is enclosed using data from the national weather service station identified in the Supplemental Conditions, or a weather station acceptable to the Owner and that such alleged greater than reasonably anticipated inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract time, the Contractor shall not be entitled to an extension of time. The Parties agree that the weather station applicable to this Project shall be the one located at Raleigh-Durham Airport, unless a different weather station is specifically agreed to in writing between the Owner and Contractor.

Also the Contractor agrees that the calculation of the number of excessive inclement weather days shall be the number of days in excess of the five-year average for each month, in which precipitation exceeded one tenth (.10) inch, or in which the highest temperature was 32 degrees F or less as recorded at the approved weather station. Rain days from hurricanes and tropical storms not causing damage in the county in which the project is located shall be deemed inclement weather days.

If the total accumulated number of calendar days lost to excessive inclement weather, from the notice-to-proceed until the building is enclosed, exceeds the total accumulated number to be reasonably anticipated for the same period from the table above, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost. No extension of time will be made for days due to excessive inclement weather occurring after the building is enclosed. For the purpose of this Contract, the term "enclosed" is defined to mean when the building is sufficiently roofed and sealed, either temporarily or permanently, to permit the structure to be heated and the plastering and dry-wall trades to work. The Design Consultant shall determine when the structure is "enclosed". Upon the request of either party, the Design Consultant shall issue a letter certifying to the Owner, with a copy to the Contractor, stating the date the building became enclosed. No change in Contract sum will be authorized because of adjustment of Contract time due to excessive inclement weather; and

- 8.3.4.2.4 Delays in the issuance of a permit required for construction of the Project, acts of the public enemy, acts of the State, Federal or local government in its sovereign capacity, and acts of another Contractor in the performance of a Contract with the Owner relating to the Project.
- 8.3.5 If the Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay the Owner the amount specified in the Contract, not as a penalty but as Liquidated Damages for such breach of Contract

as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the Work. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

8.3.6 The Contractor and the Subcontractors shall not be entitled to and hereby expressly waive any extension of time resulting from any condition or cause unless said Claim for extensions of time is made in writing to the Owner within ten (10) days of the first instance of delay for all delays, except excessive inclement weather which shall be made in writing to the Owner within forty-five (45) days after the date the structure is enclosed. Circumstances and activities leading to such Claim shall be indicated or referenced in a daily field inspection report for the day(s) affected. In every such written Claim, the Contractor shall provide the following information:

8.3.6.1 Nature of the delay;

8.3.6.2 Date (or anticipated date) of commencement of delay;

8.3.6.3 Activities on the progress schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;

8.3.6.4 Identification of person(s) or organization(s) or event(s) responsible for the delay;

8.3.6.5 Anticipated extent of the delay; and

8.3.6.6 Recommended action to avoid or minimize the delay.

8.3.7 If no schedule or agreement is made stating the dates upon which written interpretations as set forth in Section 2.2 shall be furnished, then no Claim for delay shall be allowed on account of failure to furnish such interpretations until twenty (20) days after request is made for them, and not then unless such Claim is reasonable.

8.3.8 No Claim by the Contractor for an extension of time for delays will be considered unless made in strict compliance with the requirements of this Article. All Claims not filed in accordance with this paragraph shall be waived by the Contractor.

8.4 RESPONSIBILITY FOR COMPLETION

8.4.1 The Contractor shall be responsible for completion in accordance with Paragraph 4.12.1.

8.4.2 The Owner may require the Contractor to submit a recovery schedule demonstrating his program and proposed plan to make up the lag in scheduled progress and to ensure completion of the Work within the Contract Time if the Project is behind schedule by four (4) or more days. If the Owner finds the proposed plan not acceptable, he may require the Contractor to submit a new plan. If the actions taken by the Contractor or the second plan proposed are not satisfactory, the Owner may require the Contractor to take any of the actions set forth in Paragraph 4.12.2 without additional cost to the Owner, to make up the lag in scheduled progress.

8.4.3 Failure of the Contractor to substantially comply with the requirements of this Section 8.4 may be considered grounds for a determination by the Owner, pursuant to Section 14.3, that the

Contractor is failing to prosecute the Work with sufficient diligence to ensure its completion within the Contract Time.

8.5 LIQUIDATED DAMAGES FOR DELAY

8.5.1 Owner and Contractor agree that the damages incurred by the Owner due to the Contractor's failure to achieve Substantial Completion by the date specified in the Contract Documents for Substantial Completion, including any extensions thereof, shall be in the amount of seven hundred fifty dollars (\$750) per calendar day, for each consecutive day beyond the date of Substantial Completion that Contractor achieves Substantial Completion, and that the damages incurred by the Owner due to the Contractor's failure to achieve Final Completion by the date specified in the Contract Documents for Final Completion, including any extensions thereof, shall be in the amount of two hundred and fifty dollars (\$250) per calendar day for each consecutive day beyond the date of Final Completion that Contractor achieves Final Completion. The Liquidated Damages are a reasonable estimate by Contractor and Owner of the damages to be suffered by Owner and are not to be construed as a penalty, it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly or that it would be unreasonably expensive for Owner to calculate its damages exactly.

8.5.2 The amount specified above for Substantial Completion is the minimum measure of damages the Owner will sustain due to delay in the completion of the Work, which shall include, but not be limited to the loss of use of the facilities, the relocation of students and services, the cost of the Owner's time and resources, damage to the Owner's reputation, and storage of furniture and other materials. The amount specified above for Final Completion is a reasonable and proper measure of the damages the Owner will sustain due to the delay in the completion of remedial work. This amount includes the disruption to the school and the learning environment, the cost of the Owners time and resources, damage to the Owner's reputation, and the inability to fully use the facilities. The inability of the Owner to quantify actual damages shall not prevent the recovery of Liquidated Damages.

8.5.3 Notwithstanding any other provisions of these General Conditions, if there is concurrent delay in the completion of the Work, the Contractor shall be liable for Liquidated Damages as specified above during such period of concurrent delay. For the purpose of this Paragraph, concurrent delay means (a) a delay event caused in part by the Owner or its agent and in part by the Contractor or its agents, Subcontractors or Sub-subcontractors, or (b) one or more delay event caused solely by the Owner, its agents, or the Design Consultant, and one or more delay event caused in part by the Contractor, its agents, Subcontractors or Sub-subcontractors, each of which would have resulted in a delay without the other and which delays run concurrently, or at the same time. In the event that the foregoing provision making the Contractor liable for Liquidated Damages during a period of concurrent delay is found to be unenforceable, then the parties agree that in the event of a concurrent delay, the extent of the delay will be apportioned between the Owner and the Contractor, and the Contractor will be responsible for Liquidated Damages as set forth in the General Conditions and Supplemental Conditions for those portions of the delay which are apportioned to the Contractor, its agent, Subcontractors, Sub-subcontractors, or Material Suppliers.

8.5.4 The provisions for Liquidated Damages do not bar or limit Owner's other rights and remedies against Contractor, for damages other than for failure to achieve the Substantial Completion date or the Final Completion date as required. The amount of Liquidated Damages set forth in Section 8.5 shall not include additional legal or design professional costs that may result from the Contractor's default. If such legal or design professional costs are incurred by the Owner,

the Contractor shall be liable to the Owner for those costs in addition to the Liquidated Damages amount set forth in Section 8.5.

- 8.5.5 The Liquidated Damages assessed for failure to meet Substantial Completion by the specified date and the Liquidated Damages assessed for failure to meet Final Completion by the specified date shall be assessed cumulatively.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

- 9.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

- 9.2.1 Before the first Application for Payment, the Contractor shall submit to the Owner a schedule of values allocated to the various portions of the Work and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for the Contractor's Applications for Payment and only for this purpose. If approved by the Owner, the Contractor may include in his schedule of values a line item for mobilization which shall include a reasonable amount of mobilization for the Contractor and his Subcontractors. The Contractor shall not front-end load his schedule of values. The Design Consultant shall approve the schedule of values prior to the Contractor submitting an Application for Payment for any Work, except reimbursement for the cost of the Contractor's bonds and insurance.

9.3 APPLICATIONS FOR PAYMENT

- 9.3.1 At least 30 days prior to the date for each progress payment established in the Owner-Contractor Agreement, the Contractor shall submit to the Design Consultant an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the Design Consultant and the Owner may require, including but not limited to the Contractor's certification that all work for which payment is requested has been completed in full in accordance with the Contract Documents, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. If requested by the Owner, the Contractor shall also certify that he has paid all due and payable amounts for which previous Applications for Payment were issued and payments received from the Owner, by providing waivers of liens for said payments. At least 40 days prior to the date established for payment, the Contractor may submit a draft of the itemized Application for Payment for review and comment by the Design Consultant prior to the Contractor submitting the actual itemized Application for Payment. Unless otherwise stated in the Contract Documents or agreed to in writing between the Owner and Contractor, Applications for Payment shall be due on the 25th day of each month.

- 9.3.1.1 The Contractor shall submit with the Application for Payment a list of those Historically Underutilized Businesses (HUB's) Subcontractors whose work is included in the application and the amount due each. In addition, the Historically Underutilized Business (HUB) must itself perform satisfactory work or services or provide supplies under the Contract and not act as a mere conduit.

- 9.3.2 The Owner will withhold retainage from Contractor on all Applications for Payment to the maximum extent and in the maximum amount allowed by law (currently codified at N.C.G.S. 143-134.1) and in accordance with that statute or applicable successor statute. In the event that N.C.G.S 143-134.1 or applicable successor statute are not in effect or do not apply at the time the Contract is executed, Owner will retain five percent (5%) of the amount of each Application for Payment from the Contractor as retainage, until Contractor achieves Final Completion, whether or not the Owner has occupied any or all of the Project before such time. However, if the Owner, at any time after fifty percent (50%) of the Work has been completed, finds that satisfactory progress is being made, he may authorize payment to the Contractor in full of each Progress Payment for work performed beyond the fifty percent (50%) stage of completion. If a reduction in retainage has been made, the Owner may increase the retainage back to original percentage at any time if the Owner concludes that the Contractor is not progressing with the Work in a timely or satisfactory manner.
- 9.3.3 Payments may be made by the Owner, at its sole discretion, on account of materials or equipment not incorporated in the work but delivered and suitably stored at the site or in a bonded warehouse by the Contractor. Payments for materials or equipment stored shall only be considered upon submission by the Contractor of satisfactory evidence (for example, releases or paid invoices from the seller) that the Contractor has acquired title to such material, that it will be utilized on the work under this Contract and that it is satisfactorily stored, protected, and insured or that other procedures satisfactory to the Owner that will protect the Owner's interests have been taken. In the event the materials are stored in a bonded warehouse that is not located in the county of the project, the Contractor shall reimburse the travel cost and hourly billing expenses incurred by the Design Consultant for travel to view and assess whether the materials meet the requirements of the Contract Documents. Materials once paid for by the Owner become the property of the Owner and may not be removed from the work site or bonded warehouse, other than to be delivered from the warehouse to the site, without the Owner's written permission. Responsibility for such stored materials and equipment shall remain with the Contractor regardless of ownership.
- 9.3.3.1 Owner will not make payment to the Contractor on account of materials or equipment not incorporated in the Work but delivered and stored at the site if the Contractor, in his schedule of values, does not include line items for such delivered and stored materials or equipment.
- 9.3.3.2 It is specifically understood and agreed that an inspection and approval of the materials by the Owner, the Design Consultant or any agency retained by any of them shall not in any way subject the Owner to pay for the said materials or any portion thereof, even though incorporated in the Work, if said materials shall in fact turn out to be unfit to be used in the Work, nor shall such inspection be considered as any waiver of objection to the Work on account of the unsoundness or imperfection of the material used.
- 9.3.4 The Contractor warrants that title to all work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.3.5 The Contractor shall submit with the Application for Payment a notarized Contractor's Sales Tax Report of N.C. State and County sales taxes paid during the payment period with respect to building materials, supplies, fixtures, and equipment that have become a part of, or annexed to, a building or structure erected, altered or repaired for the Owner. The Sales Tax Report shall include the vendor from whom the property was purchased, the dates and number of invoices covering the purchase, the total amount of the invoices of each vendor, the North Carolina State and County sales and use tax paid thereof, and the cost of the property withdrawn from the warehouse stock and North Carolina sales or use taxes paid thereof. Items that should not be included are: scaffolding, forms for concrete, fuel for operation of machinery and equipment, tools, equipment, equipment repair parts and equipment rentals.

9.3.6 Unless an interest rate is required by law, Owner shall not pay any interest on an amount owed to Contractor. No interest shall accrue on amounts Owner is authorized by law or by the Contract to withhold or backcharge to Contractor.

9.4 CERTIFICATION OF PAYMENT

9.4.1 The Design Consultant will, after receipt of the Contractor's Application for Payment either issue a Certification of Payment to the Owner, with a copy to the Contractor, for such amount as the Design Consultant determines is properly due, or notify the Contractor in writing of their reasons for withholding a Certification as provided in Paragraph 9.6.1.

9.4.2 The submission and approval of the progress schedule and monthly updates thereof as required by the Contract shall be an integral part and basic element of the application upon which progress payment shall be made. The Contractor shall be entitled to progress payments only as determined from the currently approved and updated schedule.

9.4.3 The signing of a Certification of Payment will constitute a representation by the Design Consultant to the Owner, based on their observations at the site pursuant to their agreements with the Owner, and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that, to the best of their knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in their Certification); and that the Contractor is entitled to payment in the amount certified. However, by signing a Certification of Payment, the Design Consultant shall not thereby be deemed to represent that it has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that it has reviewed the construction means, methods, techniques, sequences, or procedures, or that it has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

9.5 PROGRESS PAYMENTS

9.5.1 After a Certification of Payment has been issued, the Owner shall make payment in the manner and within the time provided in the Contract Documents, unless Contractor is in breach of the Contract or otherwise owes the Owner, in which case Owner may withhold an appropriate amount. Unless otherwise stated in the Contract Documents, the Owner shall make payment within 45 days of the Design Consultant's written approval of the Application for Payment.

9.5.2 The Contractor shall promptly pay each Subcontractor (including suppliers, laborers, and

material-men) performing labor or furnishing material or equipment for the Work, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's work. The Contractor shall, by an appropriate agreement with each Subcontractor, also require each Subcontractor to make payments to his Sub-subcontractors in similar manner. The Owner may at any time require proof of payment to a Subcontractor or Sub-subcontractor for work paid by the Owner. Notwithstanding any other provision of the General Conditions, no Contractor, Subcontractor, Sub-subcontractor or Material Supplier shall have any Claim against the Owner, by virtue of the Contract, under any theory, including breach of contract, or third party beneficiary. The Owner shall not be in privity of any contract with any Subcontractor, Sub-subcontractor or Material Supplier pertaining to the Work, the Project and these General Conditions. Also, neither the Contractor, or any Subcontractor or Sub-subcontractor shall have any right to assert a lien on Owner's real property or on any funds held by Owner.

- 9.5.3 The Owner may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Design Consultant on account of work done by such Subcontractor.
- 9.5.4 Neither the Owner nor the Design Consultant shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.
- 9.5.5 No Certification for a progress payment, nor any progress payment or final payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.
- 9.5.6 The Contractor agrees to keep the Work and the site of the Project free and clear of all liens related to labor and materials furnished in connection with the Work. Furthermore, pursuant to and in compliance with requirements of Paragraph 9.3.4, the Contractor waives any right he may have to file any type of lien in connection with the Work. Notwithstanding anything to the contrary contained in the Contract Documents, if any such lien is filed or there is evidence to believe that any lien may be filed at any time during the progress of the Work or within the duration of this Contract, the Owner may refuse to make any payment otherwise due the Contractor or may withhold from any payment due the Contractor a sum sufficient in the opinion of the Owner to pay all obligations and expenses necessary to satisfy such lien or the underlying claim represented by such lien. The Owner may withhold such payment unless or until the Contractor, within ten (10) days after demand thereof by the Owner, shall furnish satisfactory evidence that the indebtedness and any lien in respect thereof has been satisfied, discharged and released of record, or that the Contractor has legally caused such lien to be released of record pending the resolution of any dispute between the Contractor and the person or persons filing such lien. If the Contractor shall fail to furnish such satisfactory evidence within ten (10) days of the demand thereof, the Owner may discharge such indebtedness and deduct the amount thereof, together with any and all losses, costs, damages and attorney's fees suffered or incurred by the Owner from any sum payable to the Contractor under the Contract Documents, including but not limited to final payment and retained percentage. This Paragraph 9.5.6 shall be specifically included in all Subcontracts and purchase orders entered into by the Contractor. Notwithstanding any other provision of the Contract, nothing in the Contract shall affect the rights of Subcontractors, Sub-subcontractors, Material Suppliers and Vendors from enforcing any lien rights they have against parties other than the Owner.

9.6 PAYMENTS WITHHELD

9.6.1 The Design Consultant may decline to certify payment and may withhold their Certification of Payment in whole or in part, to the extent necessary to reasonably protect the Owner, if in the Design Consultant's opinion it is unable to make representations to the Owner as provided in Paragraph 9.4.3. If the Design Consultant is unable to make representations to the Owner as provided in Paragraph 9.4.3 and to certify payment in the amount of the Application for Payment, it will notify the Contractor as provided in Paragraph 9.4.1. If the Contractor and the Design Consultant cannot agree on a revised amount, the Design Consultant will promptly issue a Certification of Payment for the amount for which it is able to make such representations to the Owner. The Design Consultant may also decline to certify payment because of subsequently discovered evidence or subsequent observations that may nullify the whole or any part of any Certification of Payment previously issued to such extent as may be necessary in its opinion to protect the Owner from loss, because of:

- .1 Defective Work not remedied,
- .2 Third party claims filed, whether in court, in arbitration or otherwise, or reasonable evidence indicating probable filing of such claims,
- .3 Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment,
- .4 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
- .5 Damage to the Owner or another contractor,
- .6 Reasonable evidence that Contractor will not achieve Substantial Completion and/or Final Completion by the dates specified in the Supplemental Conditions.
- .7 Failure or refusal of the Contractor to carry out the Work in accordance with or to otherwise substantially or materially comply with the Contract Documents,
- .8 Liens filed or reasonable evidence that a lien may be filed for any portion of the Work,
- .9 Failure or refusal of the Contractor to properly schedule and coordinate the Work, to provide progress schedules, reports and updates, or to provide a recovery schedule when required by the Contract,
- .10 Failure or refusal of the Contractor to fully comply with the provisions of Section 6.2 requiring the Contractor to direct certain Claims to Separate Contractors and to defend and indemnify the Owner and/or the Design Consultant in the event Separate Contractors file certain Claims,
- .11 Failure or refusal of the Contractor to submit the required information on Historically Underutilized Businesses (HUB's),
- .12 Failure or refusal of the Contractor to submit a notarized North Carolina State and County Sales Tax Report,
- .13 Any other breach of the Contract by Contractor which has or is likely to cause monetary

damages or loss to Owner, or

.14 Any other reason authorized by the Contract Documents or by law.

9.6.2 When the above grounds in Paragraph 9.6.1 are removed to the Design Consultant's and Owner's satisfaction, payment shall be made for amounts withheld because of them.

9.6.3 Additional services and dispute resolution services by the Design Consultant for which the Contractor is responsible shall be paid by the Contractor at the rate of two hundred dollars (\$200) per hour.

9.7 FAILURE OF PAYMENT

9.7.1 If the Owner does not make payment to the Contractor within the forty-five (45) calendar days after receipt of the Contractor's approved Application for Payment from the Design Consultant through no fault of the Contractor, and the Owner otherwise not being entitled under the Contract Documents or applicable law to withhold payment, then the Contractor may, upon seven (7) additional days' Notice to the Owner, stop the Work until payment of the amount owed according to the Contract Documents has been received. In such event, the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by appropriate Change Order as provided herein.

9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Paragraph 8.1.3, the Contractor shall prepare for submission to the Owner a list of items which in his opinion are to be completed or corrected and shall request in writing that the Design Consultant and the Owner perform a Substantial Completion inspection. The Design Consultant and the Owner shall review the Contractor's list and shall compile a punch list of items to be corrected and completed. The failure to include any items on such list does not alter the responsibility of the Contractor to complete the Work in accordance with the Contract Documents. When the Design Consultant and the Owner on the basis of an inspection jointly determine that the Work or designated portion thereof is substantially complete, they will then prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Design Consultant, the Owner shall make payment, except retainage held pursuant to Paragraph 9.3.2, for such work or portion thereof, as provided in the Contract Documents unless Contractor is in breach of the Contract in which case Owner may withhold an appropriate amount.

9.8.3 The acceptance of Substantial Completion payment shall constitute a waiver of all Claims by the Contractor and its Subcontractors and Sub-subcontractors except those previously made in writing and identified by the Contractor as unsettled at the time the Contractor submits the

Application for Payment for Substantial Completion, and except for the retainage sums due at Final Completion. The Contractor shall indemnify and hold the Owner harmless against any Claims by its Subcontractors and Sub-subcontractors that are waived because they were not made in writing and identified by the Contractor as unsettled when the Contractor submitted the Application for Payment for Substantial Completion.

- 9.8.4 The Owner shall have the option to correct or conclude any and all punch list items not completed by the Contractor to the satisfaction of the Design Consultant and the Owner within thirty (30) days from the actual date of Substantial Completion by utilizing its own forces or by hiring others. The cost of such correction of remaining punch list items by the Owner or others shall be deducted from the final payment to the Contractor. If Contractor does not complete certain punch list items within this time period, specified in Paragraph 9.8.4, all warranties and guarantees for such incomplete punch list items shall become effective upon issuance of final payment for the Project. Paragraph 9.8.4 does not limit the Liquidated Damages provisions related to failure to reach Final Completion by the date stipulated in the Contract Documents.
- 9.8.5 The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the Project by the Owner, and the Contractor is not relieved of any responsibility for the Project except as specifically stated in the Certificate of Substantial Completion.
- 9.8.6 Should the Design Consultant and the Owner determine that the Work or a designated portion thereof is not substantially complete, they shall inform the Contractor in writing stating why the Project or designated portion is not substantially complete. The Contractor shall expeditiously complete the Work and shall re-request in writing that the Design Consultant and the Owner perform a Substantial Completion inspection. Costs, if any, associated with such inspection shall be assessed to the Contractor.
- 9.8.7 Certificate of Substantial Completion will not be issued until the following is completed by Contractor:
- .1 Submit Contractor's list of work not yet complete with proposed time for completion signed by Contractor's project superintendent;
 - .2 Submit Certificate of Occupancy;
 - .3 Submit record drawings, maintenance manuals, final project photos, property surveys;
 - .4 Deliver tools, spare parts, extra stock and similar items;
 - .5 Submit warranties, bonds, maintenance agreements and final certifications;
 - .6 Complete start-up testing of all systems and instruction of the Owner's personnel;
 - .7 Coordinate and complete final changeover of permanent locks and transmit keys to Owner;
 - .8 Discontinue and remove temporary facilities from the site;
 - .9 Complete final cleaning;
 - .10 Advise the Owner of pending insurance changeover requirements;
 - .11 Coordinate and complete changeover of security, telephone, cable and other services;and

.12 Submit pay application showing 100% complete for work claimed to be substantially complete.

9.8.8 The Contractor acknowledges that the Design Consultant and its consultants are only required to conduct up to two (2) comprehensive substantial completion inspections as part of its basic services. If more than two (2) substantial completion inspections are required through no fault of the Design Consultant, the cost of the additional inspections shall be paid by the Contractor.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of the documentation required by Section 9.8, and of written Notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Design Consultant and the Owner will promptly make such inspection and, when they find the Work acceptable under the Contract Documents and the Contract fully performed, the Design Consultant shall issue a final Certification of Payment stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents. The final Certification of Payment will constitute that the conditions precedent to the Contractor's being entitled to final payment as set forth in Section 9.8 have been fulfilled. Payment shall be made to the Contractor in the amount certified by the Design Consultant within forty five (45) calendar days after receipt by the Owner of the final Certification of Payment except for any Work for which the Owner is entitled a credit under the Contract Documents.

9.9.1.1 The Contractor acknowledges that the Design Consultant and its consultants are only required to conduct up to two (2) comprehensive final completion inspections as part of its basic services. If more than two (2) final completion inspections are required through no fault of the Design Consultant, the cost of the additional inspections shall be paid by the Contractor.

9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the Owner:

.1 An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied;

.2 Consent of Surety to final payment;

.3 If required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner; and

.4 A written certification that:

.1 The Contractor has reviewed the requirements of the Contract Documents,

.2 The Work has been inspected by the Contractor for compliance with all requirements of the Contract Documents,

.3 Pursuant to this inspection, the Contractor certifies and represents that the Work complies in all respects with the requirements of the Contract Documents,

- .4 The Contractor further certifies and represents that all equipment and systems have been installed in accordance with the Contract Documents and have been tested in accordance with the Specification requirements and are operational, and
- .5 The Contractor hereby certifies and represents that the Work is complete in all respects and ready for final inspection.

9.9.3 If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against any loss. If any such lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien or claims, including all costs and reasonable attorney's fees. The Owner may withhold from the final payment any sum that the Owner has reason to believe may be needed to satisfy any lien, claim or threat of lien arising from the Work. The Owner may deduct from the final payment an amount equal to any costs, expenses and attorney's fees incurred by the Owner in removing or discharging any liens or claim arising from the Work.

9.9.4 If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting Final Completion, and the Owner so confirms, the Owner shall, upon application by the Contractor and certification by the Design Consultant, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for the portion of the Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as provided in Section 7.4, the written consent of the Surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Design Consultant prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

9.9.5 The making of final payment shall constitute a waiver of all Claims by the Owner against the Contractor except those arising from:

- .1 Unsettled liens, and claims against the Owner or the Design Consultant, or their employees, agents, or representatives;
- .2 Faulty, defective or non-conforming Work;
- .3 Failure of the Work to comply with the requirements of the Contract Documents;
- .4 Terms of any warranties contained in or required by the Contract Documents;
- .5 Damages incurred by the Owner resulting from lawsuits brought against the Owner, the Design Consultant, or their agents, employees or representatives because of failures or actions on the part of the Contractor, his Subcontractors, Sub-subcontractors, or any of their employees, agents or representatives;
- .6 Fraud or bad faith committed by the Contractor or any Subcontractor or supplier during performance of the Work but discovered by Owner after final payment; or
- .7 Claims about which Owner did not have actual knowledge or which increase in scope or amount at the time of final payment.

- 9.9.6 The acceptance of final payment shall constitute a waiver of all Claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.
- 9.9.6.1 Notwithstanding any other provision of the Contract, Owner may withhold from Contractor payment otherwise due, as a result of any losses, expenses costs or damages suffered or anticipated to be suffered by Owner as a result of Contractor's breach of any provision of the Contract, including but not limited to Liquidated Damages or backcharges against Contractor.
- 9.10 **OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK**
- 9.10.1 Should the Project, or any portion thereof, be incomplete for Substantial or Final Completion at the scheduled date or dates, the Owner shall have the right to occupy any portion of the Project. In such an event, the Contractor shall not be entitled to any extra compensation on account of said occupancy by the Owner or by the Owner's use of the Project, nor shall the Contractor interfere in any way with said use of the Project. Further, in such an event, the Contractor shall not be entitled to any extra compensation on account of the Owner's occupancy and use of the Project, nor shall the Contractor be relieved of any responsibilities of the Contract including the required times of completion. Such occupancy by the Owner shall not, in itself, constitute Substantial or Final Completion.
- 9.10.2 If the Owner exercises his rights under the foregoing and occupies the full Project, then there shall be no Liquidated Damages on account of failure on the Contractor's part to reach Substantial Completion from that date forward. This provision does not affect, however, any Liquidated Damages that would be assessed for any period of time between the contractual date of Substantial Completion and the date of any such occupancy. Further, this provision would have no effect on Liquidated Damages assessed on account of late Final Completion.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

- 10.1 **SAFETY PRECAUTIONS AND PROGRAMS**
- 10.1.1 The Owner, the Design Consultant, or their agents, employees or representatives are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. This requirement applies continuously throughout the Contract performance, until final payment is made and all punch list and warranty work is performed properly, and is not limited to regular working hours.
- 10.2 **SAFETY OF PERSONS AND PROPERTY**
- 10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
- .1 All employees on the Work and all other persons who may be affected thereby;
 - .2 All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his

Subcontractors or Sub-subcontractors, machinery, equipment and all hazards shall be guarded or eliminated in accordance with all applicable safety regulations; and

- .3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and overhead or underground utilities not designated for removal, relocation or replacement in the course of construction.
- 10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, permits, rules, regulations and lawful orders of any public authority bearing on the safety or persons or property or their protection from damage, injury or loss.
- 10.2.2.1 The Contractor shall at all times safely guard the Owner's property from injury or losses in connection with the Contract. He shall at all times safely guard and protect his own work and adjacent property as provided by law and the Contract Documents, from damage. All passageways, guard fences, lights and other facilities required for protection by applicable safety regulations must be provided and maintained.
- 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.
- 10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 10.2.5 The Contractor shall promptly remedy at his own cost and expense all damage or loss to any property referred to in Subparagraphs 10.2.1.2 and 10.2.1.3 caused by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Subparagraphs 10.2.1.2 and 10.2.1.3, except damage or loss attributable solely to the acts or omissions of the Owner or Design Consultant or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligations under Section 4.21. The Contractor shall perform such restoration by underpinning, repairing, rebuilding, replanting, or otherwise restoring as may be required or directed by the Owner, or shall make good such damage in a satisfactory and acceptable manner. In case of failure on the part of the Contractor to promptly restore such property or make good such damage, the Owner may, upon two (2) calendar days Notice, proceed to repair, rebuild or otherwise restore such property as may be necessary and the cost thereof, or a sum sufficient in the judgment of the Owner to reimburse the owners of property so damaged, will be deducted from any monies due or to become due the Contractor under the Contract.
- 10.2.6 The Contractor is responsible for the proper packing, shipping, handling and storage (including but not limited to shipment or storage at the proper temperature and humidity) of materials to be incorporated in the Work, so as to insure the preservation of the quality and fitness of the material for proper installation and incorporation in the Work, as required by the Contract Documents. For example, but not by way of limitation, Contractor shall, when necessary, place material on wooden platforms or other hard and clean surfaces and not on the ground and/or place such material under cover in any appropriate shelter or facility. Stored materials or equipment shall be located so as to facilitate proper inspection. Material and equipment which

is delivered crated shall remain crated until ready for installation. Lawns, grass plots or other private property shall not be used for storage purposes without the written permission of the Owner or lessee unless otherwise within the terms of the easements obtained by the Owner.

- 10.2.6.1 It shall be the responsibility of the Contractor in his preparation of phasing schedule of work operations after consulting with the other Prime Contractors to designate areas in which each Prime Contractor may store materials. Areas designed shall meet with the approval of the Design Consultant.
- 10.2.7 The Contractor shall give notice in writing at least forty eight (48) hours before breaking ground, to all persons, public utility companies, owners of property having structures or improvements in proximity to site of the Work, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise, who may be affected by the Contractor's operation, in order that they may remove any obstruction for which they are responsible and have representative on site to see that their property is properly protected. Such notice does not relieve the Contractor of responsibility for all damages, claims, or defense or indemnification of all actions against Owner resulting from performance of such work in connection with or arising out of Contract. The Contractor shall ensure that all appropriate safety precautions are taken when working near existing utilities.
- 10.2.8 The Contractor shall investigate, locate, mark and protect all utilities encountered or to be encountered while performing the Work, whether indicated on the Drawings or not. The Contractor shall maintain utilities in service until moved or abandoned. The Contractor shall exercise due care when excavating around utilities and shall restore any damaged utilities to the same condition or better as existed prior to starting the Work, at no cost to the Owner. The Contractor shall maintain operating utilities or other services, even if they are shown to be abandoned on the Contract Drawings, in service until new facilities are provided, tested and ready for use.
- 10.2.9 The Contractor shall return all improvements on or about the site and adjacent property which are not shown to be altered, removed or otherwise changed to conditions which existed prior to starting the Work. The Contractor shall video record all areas or otherwise document the conditions existing at the site and in and around existing buildings prior to starting the Work. Submit documentation to the Design Consultant prior to beginning the Work.
- 10.2.10 The Contractor shall protect the Work, including but not limited to, the site, stored materials and equipment, excavations, and excavated or stockpiled soil or other material, intended for use in the Work, and shall take all necessary precautions to prevent or minimize damage to same or detrimental effect upon his performance or that of his Subcontractors, caused by or due to rain, snow, ice, run-off, floods, temperature, wind, dust, sand and flying debris; for example, but not by way of limitation, Contractor shall, when necessary, utilize temporary dikes, channels or pumping to carry-off divert or drain water, and shall as necessary tie-down or otherwise secure the Work and employ appropriate covers and screens.
- 10.2.11 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents and the protection of material, equipment and property. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner.
- 10.2.11.1 In the event of accidents involving personal injury or property damage, the Contractor shall immediately notify the Owner and Design Consultant, furnishing as much data as is available. As soon as practicable, the Contractor shall furnish to the Owner and Design Consultant a

written report indicating the extent of the damage, the persons involved, the employer of the persons involved, and the number of days each person was hospitalized.

10.2.12 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.2.13 Notification to the Contractor by the Owner or the Design Consultant of a safety violation will in no way relieve the Contractor of sole and complete responsibility for the correctness of said violation or of sole liability for the consequences of said violation.

10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. The Contractor shall notify the Owner of the situation and all actions taken immediately thereafter. If, in the opinion of the Contractor, immediate action is not required, the Contractor shall notify the Owner of the emergency situation and proceed in accordance with the Owner's instructions. Provided, however, if any loss, damage, injury or death occurs that could have been prevented by the Contractor's prompt and immediate action, the Contractor shall be fully liable for all costs, damages, claims, actions, suits, attorney's fees and all other expenses arising therefrom or relating thereto.

10.4 HAZARDOUS MATERIALS

10.4.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Design Consultant in writing.

10.4.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such hazardous material or substance is found to be present, to cause it to be rendered harmless or to verify that it has already been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Design Consultant the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Design Consultant will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Design Consultant has a reasonable objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Design Consultant have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up if the affected Work is on the Project's critical path as demonstrated by the approved Project Schedule.

- 10.4.3 The Owner shall not be responsible under this Article 10.4 for materials or substances the Contractor or its subcontractor brings to the site.
- 10.4.4 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and/or negligently handles, or (2) where the Contractor fails to perform its obligations under Article 10.4, unless the cost and expense are due to the Owner's fault or negligence.

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

- 11.1.1 The Contractor shall purchase and maintain in companies properly licensed by the Insurance Department of the State of North Carolina and acceptable to the Owner such insurance as will protect him, the Owner, and the Owner's agents, representatives, and employees from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- .1 Claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts (with Workmen's Compensation and Employer's Liability Insurance in amounts not less than those necessary to meet the statutory requirements of the state(s) having jurisdiction over any portion of the Work);
 - .2 Claims for damages because of bodily injury, sickness or disease, or death of his employees; the Contractor will require his Subcontractors to similarly provide Workmen's Compensation Insurance for all of the latter's employees;
 - .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
 - .4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
 - .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
 - .6 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- 11.1.2 The insurance required by Paragraph 11.1.1 shall be primary and non-contributing to any insurance possessed or procured by the Owner, and limits of liability shall be not less than those set forth in these General Conditions of the Contract or required by law, whichever is greater.
- 11.1.3 The insurance required by the Contract shall include contractual liability insurance applicable to the Contractor's obligations under the Contract
- 11.1.4 Without limiting the above during the term of the Contract, the Contractor and each Subcontractor shall, at their own expense, purchase and maintain the following insurance with

companies properly licensed by the Insurance Department of the State of North Carolina and satisfactory to the Owner.

- .1 Worker's Compensation including Occupational Disease and Employer's Liability Insurance.
 - .1 Statutory - Amount and coverage as required by State of North Carolina Worker's Compensation laws.
 - .2 Employer's Liability
 - \$1,000,000 Each Accident
 - \$1,000,000 Policy Limit
 - \$1,000,000 Each Employee
- .2 Commercial General Liability (Occurrence Form) - The Contractor shall provide during the life of the Contract such Commercial General Liability (Occurrence Form) Insurance as shall protect him and any Subcontractor performing work under the Contract from claims for damages for Bodily Injury including accidental death, as well as from claims for Property Damage which may arise from operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by either of them. This insurance shall be on the Standard Insurance Services Office, Inc. (ISO) Commercial Liability Occurrence Form or other form reasonable acceptable to Owner. The Contractor shall procure insurance coverage for direct operations, sublet work, elevators, contractual liability and completed operations with limits not less than those stated below:
 - .1 A Combined Single Limit for Bodily Injury, Property Damage and Personal Injury of:
 - Limits of Insurance
 - \$2,000,000 General Aggregate (except Products – Completed Operations) Limit
 - \$2,000,000 Products – Completed Operations Aggregate Limit
 - \$1,000,000 Personal and Advertising Injury Limit
 - \$1,000,000 Each Occurrence Limit
 - .3 Property Damages, including Broad Form Property Damage and Explosion, Collapse, Underground property damage coverages, and blasting, where necessary;
 - .4 Completed Operations Liability: Continuous coverage in force for one year after completion of the Work;
 - .5 Commercial Automobile Insurance, including coverage for owned, non-owned and hired vehicles - with limits not less than those stated below:
 - .1 A Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000.
 - .6 Umbrella Liability Insurance: Policy to "pay on behalf of the Insured"
 - Limits of Liability:
 - .1 Contract Amount: less than or equal to \$25,000,000:
 - Requires Umbrella Liability Insurance Limit of \$5,000,000.
 - .2 Contract Amount: greater than \$25,000,000:

Requires Umbrella Liability Insurance Limit of \$10,000,000.

- 11.1.5 The insurance required by Section 11.1 shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater.
- 11.1.6 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty (30) days' prior written Notice has been given to the Owner. Failure to provide such Notice shall not limit the liability of the Insurer, its agents or representatives.
- 11.1.7 All insurance policies required in this Article, except Worker's Compensation and Commercial Automobile, shall name the Owner as additional named insured for the insurance.
- 11.1.8 The Contractor shall not commence the Work under the Contract until he has obtained all the insurance required hereunder and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved. Approval of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.
- 11.1.9 The Commercial General Liability and Workers Compensation Policies provided by the Contractor shall have endorsements waiving subrogation against the Owner.

11.2 PROPERTY INSURANCE

- 11.2.1 The Contractor shall purchase and at all times maintain such insurance as will protect the Contractor, the Owner, Subcontractors and Sub-subcontractors from loss or damage to the Work or property in the course of construction, including all machinery, materials and supplies on the premises or in transit thereto and intended to become a part of the finished Work until Final Completion. This insurance shall be in the form of "Builders Risk Covered Cause of Loss Form", or equivalent form, to include but not limited to theft, collapse, earth movement, flood, and portions of the Work stored on site, off site and in transit. Any deductible provision in such insurance shall not exceed ten thousand dollars (\$10,000). Notwithstanding any such deductible provision, the Contractor shall remain solely liable for the full amount of any item covered by such insurance. Such insurance shall be in the initial Contract Sum and shall be increased at Contractor's expense in the amount of all additions to the Contract Sum. Such insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.
- 11.2.2 Any loss insured under Paragraph 11.2.1 is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to the requirements of Paragraph 11.2.4. The Contractor shall pay each Subcontractor a just share of any insurance moneys received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each Subcontractor to make payments to his Sub-subcontractors in similar manner.
- 11.2.3 The Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent their Claims are covered by insurance obtained pursuant to this Section 11.2, or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. The Contractor shall require, by appropriate agreement, written where legally required for validity, similar waivers in favor of the Owner and the Contractor by Subcontractors and Sub-subcontractors. With respect to the waiver of rights of

recovery, the term Owner shall be deemed to include, to the extent covered by property insurance applicable thereto, his consultants, employees, and agents and representatives. The Contractor waives as against any Separate Contractor described in Article 6, all rights for damages caused by fire or other perils in the same manner as is provided above as against the Owner. The Owner shall require, by appropriate agreement, written where legally required for validity, similar waivers in favor of the Contractor by any Separate Contractor and his subcontractors and sub-subcontractors.

11.2.4 The Owner as trustee shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within five (5) days after the occurrence of loss to the Owner's exercise of this power, and if such objection is made, the matter shall be decided by a court of competent jurisdiction or as the parties in interest otherwise agree. The Owner as trustee shall, in that case, make settlement with the insurers in accordance with the orders of the court or as otherwise agreed by the parties in interest.

11.2.5 If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

11.2.6 The Contractor bears the risk of loss or damage to the Work, the Project, materials stored on site or off site, and Owner's improvements and property under Contractor's control, both during construction and prior to Substantial Completion.

11.3 EFFECT OF SUBMISSION OF CERTIFICATES

11.3.1 The Owner shall be under no obligation to review any Certificates of Insurance provided by the Contractor or to check or verify the Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. The Contractor is fully liable for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by the Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.

11.4 FAILURE OF COMPLIANCE

11.4.1 Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by the Contract Documents or by law, or should a dispute arise between Owner and any insurance company of Contractor over policy coverage or limits of liability as required herein, the Owner shall be entitled to recover from the Contractor all amounts payable, as a matter of law, to Owner or any other parties, had the required insurance or insurance coverage been in force. Said recovery shall include, but is not limited to interest for the loss of use of such amounts of money, plus all attorney's fees, costs and expenses incurred in securing such determination and any other consequential damages arising out of the failure of the Contractor or insurance company to comply with the provisions of the Contract Documents, or any policy required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

11.5 OWNER'S INSURANCE

11.5.1 Property Insurance: The Owner, at his option, may purchase and maintain such insurance as will insure him against loss of use of his property due to fire or other hazards, however caused.

11.5.2 Commercial Public Liability Insurance: The Owner, at his option, may purchase and maintain insurance which will insure and protect him against claims involving bodily injury and property damage to the public. The Owner does not request his insurer to waive any right of subrogation against the Contractor from claims under this coverage.

11.6 LICENSED INSURANCE COMPANIES

11.6.1 All insurance companies providing the above insurance shall be licensed by the Insurance Department of the State of North Carolina and have a minimum AM Best "A" rating or similar rating from another rating agency reasonably acceptable to Owner.

ARTICLE 12

CHANGES IN THE WORK

12.1 GENERAL PROVISIONS RELATED TO CHANGES

12.1.1 A Construction Change Directive is a document issued pursuant to this Paragraph 12.1.1. The Owner may, at any time, without the agreement of the Contractor, by written order signed by the Owner and Design Consultant designated or indicated to be a Construction Change Directive, make any Changes in the Work or add to or subtract from the Work within the general scope of the Contract. A Change in the Work is defined as changes within the general scope of the Contract, including, but not limited to changes:

- .1 In the Specifications or Drawings;
- .2 In the sequence, method or manner of performance of the Work;
- .3 In the Owner-furnished facilities, equipment, materials, services or site; or
- .4 Directing acceleration in the performance of the Work.

12.1.2 A Change Order is a document executed pursuant to this Paragraph 12.1.2. The Owner and Contractor may agree to Changes in the Work, the Contract Sum, the Contract Time and any other change in the Contract by written agreement signed by Owner, Contractor and Design Consultant designated or indicated to be a Change Order. If the Contractor, subsequent to the issuance of a Construction Change Directive, agrees to its terms including any applicable adjustment to the Contract Sum and Contract Time, Contractor shall sign it and it shall become a Change Order.

12.1.3 The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the Proposal is based and to which the parties have agreed pursuant to the provisions of Article 12, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising

from the performance of any and all Changes in the Work performed pursuant to this Article 12, unless the delay is caused solely by the Owner or its agent. It is understood and agreed that the Contractor's sole and exclusive remedy in the event the delay is caused solely by the Owner or its agent shall be recovery of his direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents. The phrase "Owner or its agent" as used in the Contract, does not include the Prime Contractors or their Subcontractors.

- 12.1.4 No Claim by the Contractor shall be allowed if asserted after final payment under this Contract. No Claim relating to or flowing from a particular change shall be allowed after execution of the Change Order relating to that change or commencement of the change by the Contractor except as specifically provided in Paragraph 12.2.4.
- 12.1.5 If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the Contract Time as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the Owner in writing. The Owner shall, however, pay to the Contractor up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work will result in an increase in the Contract Sum; and the Owner shall have the right to withhold payment from the Contractor in an amount up to the Owner's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work will result in a decrease in the Contract Sum.
- 12.1.6 No Change in the Work shall be performed without a fully executed Change Order to the Contract a fully executed Construction Change Directive or other Modification to the Contract.
- 12.1.7 If the Contractor intends to assert a Claim under this Article, he must, within ten (10) days after receipt of a Construction Change Directive, Notify the Owner by written statement setting forth the specific nature and cost of such Claim, unless this period is extended by the Owner. The statement of Claim shall include all direct, indirect and impact costs associated with the change, as well as the Contractor's estimate of the schedule impact of the change, if any. The Contractor and its Subcontractors shall not be entitled to reimbursement for any Claims that are not submitted in strict conformance with the Contract. The Contractor shall indemnify and hold the Owner harmless against any Claims by Subcontractors that are waived because they are not submitted in strict conformance with the Contract.
- 12.2 **OWNER DIRECTED CHANGES REQUIRING AN INCREASE IN CONTRACTSUM.**
(For decreases in Contract Sum, refer to Section 12.6)
- 12.2.1 If the Change in the Work will result in an increase in the Contract Sum, the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such Change in the Work).

If the Owner elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum Proposal which shall be submitted by the Contractor to the Owner within ten (10) days of the Contractor's receipt of a request therefore (but the Owner's request for a lump sum Proposal shall not be deemed an election by the Owner to have the Change in the Work performed on a lump sum basis). The Contractor's Proposal shall be itemized and segregated by labor and materials for the various components of the Change in the Work (no aggregate labor total will be acceptable) and shall be accompanied by signed Proposals of any Subcontractors who will perform any portion of the Change in the Work and of any persons who

will furnish materials or equipment for incorporation therein. The Proposal shall also include the Contractor's estimate of the time required to perform said changes. The Contractor shall provide any documentation that may be requested by the Owner or Design Consultant to support the change proposal, including but not limited to payroll records, insurance rates, material quotes, and rental quotes.

The portion of the Proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of job site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime time, if overtime is anticipated, Social Security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (said overhead and profit to include all supervision except foremen). Payroll costs are limited to 39% of the net pay of the worker.

The portion of the Proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales and use taxes and up to fifteen percent (15%) of said direct material costs as overhead and profit for the Contractor or any such Subcontractor (said overhead and profit to include all small tools), and may further include the Contractor's and any of its Subcontractor's reasonably anticipated rental costs in connection with the Change in the Work (either actual or discounted local published rates), plus up to eight percent (8%) thereof as overhead and profit for the Contractor or any such Subcontractors, as applicable. The Contractor shall provide an itemized breakdown of all transportation and shipping costs, including receipts documenting the expenses. Notwithstanding the above, overhead and profit shall not be applied to any sales tax paid for any purpose or to any transportation or shipping costs incurred by the Contractor or any subcontractor. If any of the items included in the lump sum Proposal are covered by unit prices contained in the Contract Documents, the Owner may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum Proposal, in which event an appropriate deduction will be made in the lump sum amount prior to the application of any allowed overhead and profit percentages. No overhead and profit shall be applied to any unit prices.

The lump sum Proposal may include up to eight percent (8%) of the amount which the Contractor will pay to any of its Subcontractors for Changes in the Work as overhead and profit for the Contractor. The Contractor shall not be reimbursed for the costs of the Subcontractors' Payment and Performance Bonds, as such bonding is not required by the Owner.

12.2.2 In the event that the Contractor fails to submit his Proposal within the designated period, the Owner may order the Contractor to proceed with the Change to the Work and the Contractor shall so proceed. The Owner shall unilaterally determine the reasonable cost and time to perform the Work in question, which determination shall be final and binding upon the Contractor. The Contractor may dispute such action in accordance with the Article 15.

12.2.3 In the event that the parties are unable to agree as to the reasonable cost and time to perform the Change in the Work based upon the Contractor's Proposal and the Owner does not elect to have the Change in the Work performed on a time and material basis, the Owner may choose to make a determination of the reasonable cost and time to perform the Change in the Work, based upon its own estimates, the Contractor's submission or a combination thereof. A Construction Change

Directive shall be issued in this case for the amounts of cost and time determined by the Owner and shall become final and binding upon the Contractor, subject to Contractor's right to dispute such action in accordance with Article 15. Owner has the right to direct by Construction Change Directive a Change in the Work, which is the subject of such Change Order. Failure of the parties to reach agreement regarding the cost and time of the performing the Construction Change Directive, shall not relieve the Contractor from performing the Change in the Work promptly and expeditiously.

12.2.3.1 The Owner reserves the right to reject the Contractor's Proposal for a Change in the Work and to elect to perform said Work using a Separate Contractor. Under such circumstances, all provisions of Article 6 shall be in force.

12.2.4 If the Owner elects to have the Change in the Work performed on a time and material basis, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-subcontractors, at actual cost to the entity performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the cost, use or rental of tools or plant), plus fifteen percent (15%) thereof as the total overhead and profit (except that said fifteen percent (15%) shall not be applied against any payroll costs, as set forth in Paragraph 12.2.1.) The Contractor shall submit to the Owner daily time and material tickets, on a daily basis to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the materials used, the equipment rented (not tools) and such other evidence of cost as the Owner may require. The Owner may require authentication of all time and material tickets and invoices by persons designated by the Owner for such purpose. The failure of the Contractor to secure any required authentication shall, if the Owner elects to treat it as such, constitute a waiver by the Contractor of any Claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by the Owner shall not constitute an acknowledgment by the Owner that the items thereon were reasonably required for the Change in the Work.

12.2.5 No overhead and profit will be paid by the Owner on account of a Change in the Work except as specifically provided in Section 12.2. Overhead and profit, as allowed under Section 12.2, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of a Change in the Work and which are not otherwise specifically recoverable by them pursuant to Section 12.2.

12.3 CONTRACTOR NOTICE OF CHANGE

12.3.1 If the Contractor or any of its Subcontractors asserts that any event or occurrence has caused a Change in the Work which change causes an increase or decrease in the Contractor's or its Subcontractors cost or the time required for the performance of any part of the Work under the Contract, including Work not affected directly by the change, the Contractor shall, within ten (10) days of such event, give the Owner written Notice as herein required. Said Notice shall include the instructions or circumstances that are the basis of the Claim and the Contractor's best estimate of the cost and time involved.

12.4 MINOR CHANGES IN THE WORK

12.4.1 The Owner shall have authority to order minor Changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding

on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

12.4.2 The Contractor shall not perform any Changes in the Work unless authorized in writing by the Design Consultant or Owner.

12.5 DIFFERING SITE CONDITIONS

12.5.1 Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the Drawings or indicated in the Specifications or differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, or different from that shown on surveys or tests provided in the bid materials at the time the Owner solicited bids from the construction of the Project, he shall immediately give Notice to the Owner of such conditions before they are disturbed. The Owner and the Design Consultant shall thereupon promptly investigate the conditions and if they find that they materially differ from those shown on the Drawings or indicated in the Specifications, they shall at once make such changes in the Drawings and/or Specifications as they may find necessary. Any increase or decrease of cost resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. However, neither the Owner nor the Design Consultant shall be liable or responsible for additional work, costs or Changes to the Work due to material differences between actual conditions and any geotechnical, soils and other reports, surveys and analyses made available for the Contractor's review at the time the Owner solicited bids for the construction of the Project.

12.6 OWNER DIRECTED CHANGES REQUIRING A DECREASE IN CONTRACT SUM.

12.6.1 If the Change in the Work will result in a decrease in the Contract Sum, the Owner may request a quotation by the Contractor of the amount of such decrease. The following provisions shall apply:

The portion of the Proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, shall include reasonably anticipated gross wages of job site labor, including foremen, who would have been directly involved in the Work that has been deleted from the Contract, (for such time as they would have been so involved), plus payroll costs (including premium costs of overtime time, if overtime was anticipated, Social Security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and seven percent (7%) of such anticipated gross wages, but not payroll costs, as overhead and profit not incurred or earned by the Contractor or any such Subcontractor, as applicable (said overhead and profit to include all supervision except foremen).

The portion of the Proposal relating to materials shall include the reasonably anticipated direct costs which would have been incurred by the Contractor or to any of its Subcontractors of materials which would have been purchased for incorporation in the Work but which has been deleted from the Contract, plus transportation and applicable sales and use taxes which will be avoided and seven percent (7%) of said direct material costs as overhead and profit not incurred or earned by the Contractor or any such Subcontractor (said overhead and profit to include all small tools), and shall further include the Contractor's and any of its Subcontractor's reasonably anticipated rental costs which will be avoided (either actual or discounted local published rates), plus five percent (5%) thereof as overhead and profit not incurred or earned by the Contractor or any such Subcontractors, as applicable. If any of the items included in the lump sum Proposal are covered by unit prices contained in the Contract Documents, the Owner may elect to use

these unit prices in determining the amount of reduction to the Contract Sum as a result of a deletion of Work from the Contract. No overhead and profit shall be applied to any unit prices for purposes of calculation such reduction in the Contract Sum.

The lump sum Proposal for Work which would have been performed by any Subcontractors shall include four percent (4%) of that amount as an estimate of the Contractor's overhead and profit that will not be earned by Contractor due to the decrease in the Contract Sum.

The Contractor's quotation shall be forwarded to the Owner within ten (10) days of the Owner's request and, if acceptable to the Owner, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the Work, as determined by the Owner in its reasonable judgment, plus overhead and profits stated above. This shall become final and binding upon the Contractor, subject to Contractor's right to dispute such action in accordance with the Article 15.

ARTICLE 13

UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

13.1.1 If any portion of the Work is covered contrary to the request of the Owner or the Design Consultant or to requirements specifically expressed in the Contract Documents or to requirements of applicable construction permits, it must, if required in writing by the Owner, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Design Consultant or the Owner has not specifically requested to observe prior to being covered, either may request to see such portion of the Work and it shall be uncovered by the Contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by the Owner, in which event the Owner shall be responsible for the payment of such costs. If such condition was caused by a Separate Contractor, Contractor may proceed against and only against, said Separate Contractor as provided in Article 6. Any costs to the Owner pursuant to this Paragraph shall be determined in accordance with the provisions of Article 12.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly reconstruct, replace or correct portions of the Work rejected by the Design Consultant or Owner as defective or as failing to conform to the Contract Documents or as not in accordance with the guarantees and warranties specified in the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected portions of the Work, including compensation for the Design Consultant's and the Owner's additional construction management services made necessary thereby.

13.2.2 The Contractor, unless removal is waived by the Owner, shall remove from the site all portions

of the Work which are defective or non-conforming, or if permitted or required, he shall correct such portions of the Work in place at his own expense promptly after receipt of Notice, and such rejected Work shall not thereafter be tendered for acceptance unless the former rejection or requirement for correction is disclosed.

13.2.3 If the Contractor does not proceed with the correction of such defective or non-conforming portions of the Work within a reasonable time fixed by written Notice from the Owner or Design Consultant, the Owner may either (1) by separate contract or otherwise replace or correct such portions of the Work and charge the Contractor the cost incurred by the Owner thereby and remove and store the materials or equipment at the expense of the Contractor, or (2) terminate this Contract for default as provided in Section 14.3, or both, or take any other measure allowed by law.

13.2.4 The Contractor shall bear the cost of making good all work of the Owner or Separate Contractors destroyed or damaged by such correction or removal.

13.2.5 Nothing contained in this Section 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Section 4.6 hereof. The establishment of the time period of one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 If the Owner prefers to accept defective or non-conforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable, or the Owner may elect to accept payment in materials or services, in lieu of a reduction in the Contract Sum. If the amount of a reduction is determined after final payment, it shall be paid to the Owner by the Contractor.

ARTICLE 14

TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 If the Work is stopped for a period of one hundred twenty (120) days by the Owner or under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, and through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon seven (7) additional days' written Notice to the Owner and the Design Consultant, terminate the Contract and recover from the Owner payment on a quantum merit basis, for all Work executed for which Contractor has not previously been paid, less any amounts Contractor may owe Owner under the Contract Documents and less any amounts Owner is entitled to withhold from Contractor or backcharge to the Contractor under the Contract Documents or pursuant to law. The Contractor shall not be entitled to collect and hereby expressly waives any overhead or profit on Work not performed and any damages related to that

portion of the Contract which has been terminated.

14.2 TERMINATION FOR CONVENIENCE OF THE OWNER

14.2.1 The Owner may, at any time upon ten (10) days written Notice to the Contractor and to the Contractor's Surety, which Notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the Work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Section 14.4. Contractor shall include termination clauses identical to Article 14 in each of his subcontracts.

14.3 DEFAULT TERMINATION

14.3.1 Ten (10) days after written Notice is mailed to the Contractor and to the Contractor's Surety, the Owner may terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the employment of the Contractor and his right to proceed either as to the whole or any portion of the Work required by the Contract Documents and may take possession of the Work and complete the Work by contract or otherwise in any one of the following circumstances:

- .1 If the Contractor or its Surety refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure the Substantial and Final Completion of the Work by the dates specified in the Supplemental Conditions for Substantial and Final Completion or fails to complete the Work or remedy a default within said period;
- .2 If the Contractor is in material default in carrying out any provisions of the Contract;
- .3 If the Contractor fails to supply a sufficient number of properly skilled workers or proper equipment or materials;
- .4 If the Contractor fails to make prompt payment to Subcontractors or for materials or labor, unless he otherwise provides the Owner satisfactory evidence that payment is not legally due;
- .5 If the Contractor disregards laws, permits, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
- .6 If the Contractor substantially violates any provisions of the Contract Documents; or
- .7 If the Contractor refuses or fails to properly schedule, plan, coordinate and execute the Work, as specified herein, so as to perform the Work within the specified Completion Dates, or to provide scheduling or related information, revisions and updates as required by the Contract Documents.

14.3.2 The right of the Contractor to proceed shall not be so terminated under this Section 14.3 if the delays in the completion of the Work are due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor or his Subcontractors as specifically set forth in Section 8.3 hereof.

14.3.3 If, after the Contractor has been terminated for default pursuant to Section 14.3, it is determined that none of the circumstances set forth in Paragraph 14.3.1 exist, then such termination shall be

considered a termination for convenience pursuant to Section 14.2. In such case, the Contractor's sole remedy will be the costs permitted by Section 14.4.

- 14.3.4 If the Owner so terminates the employment of the Contractor due to the Contractor's default, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation to be paid to the Contractor hereunder shall exceed the expense of so completing the Work (including compensation for additional managerial, administrative, consultant and inspection services, attorney's fees and any damages for delay) such excess shall be paid to the Contractor.
- 14.3.5 If such expenses referenced in Paragraph 14.3.1, shall exceed the unpaid balance, the Contractor and his sureties shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is partially or fully terminated, the Owner may take possession of and utilize in completing the Work such materials, appliances, supplies, plant and equipment as may be on the site of the terminated portion of the Work and necessary for the completion of the Work. If the Owner does not fully terminate the right of the Contractor to proceed, the Contractor shall continue to perform the part of the Work that is not terminated.
- 14.3.6 If the Owner terminates the whole or any part of the Work pursuant to Section 14.3, the Owner may procure, upon such terms and in such manner as the Owner may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

14.4 ALLOWABLE TERMINATION COSTS

14.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Section 14.2, then the Owner shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Paragraph 14.4.2, plus a markup of ten percent (10%) for profit and overhead on the actual fully accounted costs specified under Paragraph 14.4.2; provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit or overhead shall be included or allowed hereunder for the Work performed and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss. Under no circumstances shall the Contractor be entitled to any loss profit on the Work terminated pursuant to Section 14.2.

14.4.1.1 After receipt of a Notice of Termination, the Contractor shall submit to the Owner his termination Claim, in the form and with certification prescribed by the Owner. Such Claim shall be submitted promptly but in no event later than three (3) months from the effective date of termination, unless one or more extensions in writing are granted by the Owner upon request of the Contractor made in writing within such three (3) month period or authorized extension thereof. However, if the Owner determines that the facts justify such action, he may receive and evaluate any such termination Claim at any time after such three (3) month period or any extension thereof. Upon failure of the Contractor to submit his termination Claim within the time allowed, the Owner may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and such termination shall be final and binding on the Contractor.

14.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Section 14.2, the Owner shall pay the Contractor an amount for supplies, services, or property accepted by the Owner, and which is in accordance with the Contract Documents, in an amount as if the Contract had not been terminated. In addition, in such event, the Owner shall pay to Contractor an

amount representing Contractor's actual cost, excluding any overhead and profit for the items and things specified in Subparagraph 14.5.1.6 and not heretofore paid for, appropriately adjusted for any saving of freight or other charges. Under no circumstances shall the Contractor be entitled to any loss profit on the Work terminated pursuant to Section 14.2.

14.4.2.1 The Contractor agrees that neither the Owner nor the Design Consultant will be liable for payments to Contractors or Subcontractors pursuant to Section 14.4.2 unless each contract and subcontract contains termination provisions identical to those set forth in this Article 14. The Owner and the Design Consultant will not be liable to the Contractor or any of the Subcontractors for any costs associated with termination if the contract or subcontract of the party involved does not include the required termination language.

14.4.3 In arriving at any amount due the Contractor pursuant to Section 14.4, there shall be deducted the following:

- .1 All unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of the Contract;
- .2 Any Claim which the Owner may have against the Contractor;
- .3 Such amount as the Owner determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and
- .4 The agreed price for, or the proceeds of sale of, any materials, supplies or other things acquired by the Contractor sold, pursuant to the provisions of Subparagraph 14.5.1.7, and not otherwise recovered by or credited to the Owner, or returned for a refund by the Contractor.
- .5 All other amounts the Owner is entitled to withhold from the Contractor or charge to the Contractor pursuant to the Contract or as allowed by applicable law.

14.4.4 The total sum to be paid to the Contractor under Section 14.4 shall not exceed the Contract Sum as reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Paragraph 14.4.2, the fair value, as determined by the Owner, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to Subparagraph 14.5.1.7.

14.5 GENERAL TERMINATION PROVISIONS

14.5.1 After receipt of a Notice of termination from the Owner, pursuant to Section 14.2 or 14.3, and except as otherwise directed by the Owner, the Contractor shall:

- .1 Stop work under the Contract on the date and to the extent specified in the Notice of termination;
- .2 Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
- .3 Terminate all orders and subcontracts to the extent that they relate to the performance of

the Work terminated by the Notice of termination;

- .4 At the option of the Owner, and in lieu of terminating such orders and subcontracts, assign to the Owner in the manner, at the times and to the extent directed by the Owner in writing, all of the rights in the such orders and subcontracts,
- .5 Settle all outstanding liabilities and all Claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Owner in writing, to the extent he may require, which approval or ratification shall be final for all the purposes of this Article;
- .6 Transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent directed by the Owner to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated, the following:
 - (1) The fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated by the Notice of termination; and
 - (2) The completed or partially completed plans, drawings, information, releases, manuals and other property related to the Work and which, if the Contract had been completed, would have been required to be furnished to the Owner;
- .7 Use his best efforts to return for a refund or sell, in the manner, at the times, to the extent and at the price or prices directed or authorized by the Owner, any property of the types referred to in Subparagraph 14.5.1.6; provided, however, that the Contractor:
 - (1) Shall not be required to extend credit to any buyer, and
 - (2) May acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner in writing; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Owner to the Contractor under the Contract or shall otherwise be credited to the Contract Sum covered by the Contract or paid in such other manner as the Owner may direct;
- .8 Complete performance of such part of the Work as shall not have been terminated by the Notice of termination;
- .9 Take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest; and
- .10 Otherwise mitigate any damages Contractor claims to suffer as a result of a termination.

14.5.2 The Contractor shall, from the effective date of termination until the expiration of three (3) years after final settlement under the Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the Work terminated hereunder, or, to the extent approved by the Owner, photographs, micro-photographs or other authentic reproductions

thereof.

- 14.5.3 If the termination, pursuant to Section 14.2, be partial, the Contractor may file with the Owner a Claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any Claim by the Contractor for an equitable adjustment under this Paragraph must be asserted within thirty (30) days from the effective date of the Notice of termination.
- 14.5.4 The Contractor shall refund to the Owner any amounts paid by the Owner to the Contractor in excess of costs reimbursable under Section 14.4.
- 14.5.5 The Contractor shall be entitled to only those damages and that relief from termination by the Owner as specifically provided in Article 14.

ARTICLE 15

DISPUTE RESOLUTION

15.1 INITIATING CLAIMS

- 15.1.1 Claims must be initiated by written Notice to the Owner and to the party against whom the Claim is made with a copy to the Design Consultant. The responsibility to substantiate Claims shall rest with the party making the Claim.
- 15.1.2 Nothing in the Contract shall be construed as meaning that the Owner's assessment of Liquidated Damages is a Claim as defined herein, or that the Owner has the burden of proof to assess Liquidated Damages. Should the Owner assess Liquidated Damages, the burden of proving that such damages should not have been assessed shall rest upon the Contractor.

15.2 RESOLUTION OF CLAIMS AND DISPUTES BETWEEN CONTRACTOR AND OWNER

- 15.2.1 Claims by Contractor against Owner and by Owner against Contractor, including those alleging an error or omission by the Design Consultant shall be subject to the process set forth in this Section 15.2. Such Claims shall be referred initially to the Design Consultant for a decision. A final decision by the Design Consultant, or the failure of the Design Consultant to issue a final decision shall be required as a condition precedent to mediation or litigation of all such Claims arising prior to the date final payment is due. The Design Consultant will initially decide disputes between Owner and Contractor.
- 15.2.2 The Design Consultant will review Claims by Contractor and Owner against each other and within twenty (20) days of the receipt of the written Claim and take one or more of the following actions:
- .1 Request additional supporting data from the claimant or a response with supporting data from the other party;
 - .2 Reject the Claim in whole or in part;
 - .3 Approve the Claim;
 - .4 Suggest a compromise; or

- .5 Advise the parties that the Design Consultant is unable to resolve the Claim if the Design Consultant lacks sufficient information to evaluate the merits of the Claim or if the Design Consultant concludes that it would be inappropriate for the Design Consultant to resolve the Claim.
- 15.2.3 In evaluating Claims made under this Section 15.2, the Design Consultant may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who assist the Design Consultant in rendering a decision.
- 15.2.4 If the Design Consultant requests a party to provide a response to a Claim under this Section 15.2, or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of such request, and shall within such time period, either provide a response to the requested supporting data, advise the Design Consultant when the response or supporting data will be furnished, or advise the Design Consultant that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Design Consultant will either reject or approve the Claim in whole or in part.
- 15.2.5 The Design Consultant will approve or reject Claims under this Section 15.2 by written decision, which shall state the reason thereof and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Design Consultant under this Section 15.2 shall be final and binding on the parties but subject to mediation and litigation.
- 15.2.6 When a written decision of the Design Consultant under this Section 15.2 states that the decision is final but subject to mediation, then a demand for mediation of a Claim covered by such decision must be made within thirty (30) days after the date on which the party making the demand receives the final written decision. Any failure to demand mediation within said thirty (30) days' period shall result in the Design Consultant's decision becoming final and binding to all parties. Claims not resolved in mediation shall be subject to litigation if in accordance with the applicable statutes of limitation and repose.
- 15.2.7 Upon receipt of a Claim under Section 15.2 against the Contractor or at any time thereafter, the Design Consultant or the Owner may, but is not obligated to, notify the Surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Design Consultant or the Owner may, but are not obligated to, notify the Surety and request the Surety's assistance in resolving the controversy.
- 15.2.8 If the Design Consultant deems that a Claim under this Section 15.2 is valid, the Design Consultant shall require all parties to the dispute to share the cost of the Design Consultant's review equitably. If the Design Consultant deems that a Claim under this Section 15.2 is invalid, the Design Consultant shall require the complaining party to bear the cost of the Design Consultant's review. In any event, the Design Consultant may require the complaining party to submit a deposit equivalent to the Design Consultant's hourly rate multiplied by the amount of time the Design Consultant estimates, in the Design Consultant sole discretion, that will be necessary to review the Claim. The Design Consultant shall return any unused portion of this initial deposit to the complaining party following the Design Consultant's completion of the Design Consultant's review of the Claim. Nothing in these procedures shall entitle the Design Consultant to compensation for additional services from the Owner that is not authorized pursuant to the terms and conditions of the Agreement for Design Consultant Services.

15.3 TIME LIMITS ON CLAIMS

15.3.1 Unless a shorter time is provided in the Contract Documents, Claims by Contractor or any party except Owner must be initiated within twenty (20) days after occurrence of the event giving rise to such Claim or within twenty (20) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims against the Owner shall be initiated in strict conformance with the Contract Documents. Nothing in these procedures shall extend the period within or the manner in which Claims against the Owner must be submitted. Claims must be initiated by written Notice to the Owner and written notice to the other party and to the Design Consultant. Any Claim against the Owner that is not initiated within the applicable time period is waived. Claims by Owner may be made at any time within the applicable statute of limitations and repose.

15.4 CONTINUING CONTRACT PERFORMANCE

15.4.1 Pending final resolution of a Claim, the Contractor shall proceed diligently with the performance of the Contract, unless instructed otherwise in writing by the Owner.

15.5 MEDIATION

15.5.1 As required by N.C.G.S 143-128 (f1), any Claim as defined herein, which exceeds fifteen thousand dollars(\$15,000.00), and which concerns a party involved in the Project, including the Owner, Contractor, Design Consultant, any construction manager, separate contractors, or first and lower tier Subcontractors and which arise out of the Contract or the construction process, except those waived Claims shall, be subject to mediation as a condition precedent to the institution of legal proceedings by any party, except that any party may institute legal proceedings or perfect any mechanic's or materialmen's lien in order to meet any applicable statute of limitations or similar deadline prior to engaging in mediation.

15.5.2 The parties shall endeavor to resolve their Claims under this Section 15.5 by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the rules established by the Owner.

15.5.3 The parties shall share cost of the mediation equally except that if the Owner is a party to the dispute, the Owner shall pay at least one third of the cost of the mediation.

15.5.4 The mediation shall be held in a place where the Project is located, unless another location is mutually agreed upon.

15.5.5 Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

15.5.6 The Owner's Dispute Resolution Policy required by N.C.G.S. § 143-128(f1) is contained in Policy 9030 (www.dpsnc.net). The Dispute Resolution Policy is also included in the bid and contract documents.

END OF GENERAL CONDITIONS

SUMMARY OF WORK

PART 1 - GENERAL

1. RELATED DOCUMENTS

- a. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

2. WORK COVERED BY CONTRACT DOCUMENTS

- a. The Project is: Asbestos Abatement and Demolition of 4505 S Alston Ave. (former Lowes Grove Elementary School)
- b. Project Location: 4505 S. Alston Ave
 - i. Owner: Durham Public Schools
- c. Contract Documents
- d. The Work generally includes: Test for asbestos, abate asbestos, and complete demolition of structures and any items underground (septic and / or oil tanks).

3. CONTRACTOR USE OF PREMISES

- a. Refer to Special Project Procedures Section 01 35 13 and Work Restrictions 01 14 00.

4. OCCUPANCY REQUIREMENTS

- a. Building is unoccupied and will remain unoccupied

5. MISCELLANEOUS PROVISIONS

- a. Owner will not remove any existing furniture or debris

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 01 11 00

Section 01 11 00

WORK RESTRICTIONS Section 01 14 00

Abatement and Demolition of 4505 S. Alston Ave.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, general provisions of the Contract, including General Conditions, other Division 1 Specification Sections, and all other contract bid documents apply to this Section.

1.2 USE OF PREMISES

- A. Use of Site: Limit use of premises to work in areas indicated. Do not disturb portions of site beyond areas in which the Work is indicated.
 - 1. Driveways and Entrances: Keep driveways and entrances serving premises clear and available to Durham Public Schools, Durham Public Schools employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
 - a. Schedule deliveries to minimize use of driveways and entrances.
 - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.

1.3 SUMMARY

- A. This Section includes a summary of each contract, including responsibilities for coordination and temporary facilities and controls.
- B. Specific requirements of each contract are also indicated in individual Specification Sections, All Bid Documents and on Drawings.

WORK RESTRICTIONS Section 01 14 00

1.4 SPECIAL REQUIREMENTS

- A. Prime and subcontractors are required to comply with Article 2 of Chapter 64 of the North Carolina General Statutes, including but not limited to, the use of E-Verify to verify the legal employment status of its employees.

Each prime and subcontractor shall sign and return their Affidavit of E-Verification to Durham Public Schools at the time they return their contract.

If at any time during the project additional workers are hired by the prime or subcontractor, the prime or subcontractor shall notify Durham Public Schools, sign and return an Affidavit of E-Verification prior to the new hire beginning work on the project.

If at any time during the project additional prime or subcontractors are added to the project, Durham Public Schools shall be notified, and the new prime or subcontractor shall sign and return an Affidavit of E-Verification prior to commencing work on the project.

- B. Criminal Background Investigations of individuals working on school property (sites occupied with students and sites not occupied with students).
- C. At a minimum, the contractor shall obtain a complete North Carolina statewide criminal background investigation for all employees and subcontractors who will work on this project, covering a period for the last seven (7) years. In the event that the contractor or subcontractor is from out of state, the criminal background investigation shall be broadened to include their home state, as well as the state of North Carolina as outlined above. The company providing such information must be recognized by local law enforcement agency as qualified to do so. All costs associated with these criminal background checks is the responsibility of the contractor.

Each prime contractor will be responsible for all their employees and all of their subcontractors working under them.

On sites that are new or unoccupied by students and staff – each prime contractor will provide the daily sign-in sheet to the Owner’s Rep who will be designated by the Owner at the Pre-Construction Meeting.

The daily sign in log will be made available to the successful prime contractors at the Pre-Construction Meeting.

- D. Any individual with the following criminal convictions or pending charges will **NOT** be permitted on any school project or property.

Child molestation or abuse;

1. Child molestation or abuse;
2. Child pornography;
3. Repeated domestic violence charges or convictions;
4. Rape or felony sexual assault;
5. Any sexually oriented crime;

WORK RESTRICTIONS Section 01 14 00

6. Drugs: Felony use, possession or distribution within the last 10 years;
 7. Carjacking or automotive theft;
 8. Felonies involving firearms or other deadly weapons;
 9. Felony arson or destruction of property;
 10. Felony theft, burglary, home invasion or robbery;
 11. Felony racketeering or extortion;
 12. Felony kidnapping;
 13. Felony assault, battery, homicide, murder, attempted murder or other violent felony; or Hate crimes.
- E. Any individual with a prior conviction or pending charges contained in the aforementioned list, shall be banned (not allowed) from any school project or property.
- F. Each person on site must wear a plastic laminated identification badge that identifies the name of the company and the person's name. These badges are to be computer produced at a font large enough to be clearly visible. All costs associated with these criminal background checks is the responsibility of the contractor. The ID badge template will be made available to the successful prime contractors at the Pre-Construction Meeting.
- G. Durham Public Schools, may, at any time, request verification of criminal background investigation for any employee or subcontractor on school property.
- H. There is a NO TOBACCO policy on all property owned by Durham Public Schools. Therefore, use of any type of tobacco product is prohibited. Workers will be asked to leave the site for the balance of the day on their first offense. Workers will be asked to permanently leave the site after the first offense.
- I. In the event the contractor fails to meet their schedule and this failure to meet the scheduled completion dates affect the delivery of Owner furnished furniture and / or equipment – the Owner has the right (at the sole expense of the contractor) to procure the services of security guards to protect furniture and / or equipment that has been delivered to the project until such time as contractor has met the requirements for the Owner's permanent occupancy of the building (Substantial Completion). The Contractor further agrees that they will pay for all handling, shipping and storage costs associated with the storage of furniture and equipment that cannot be delivered and placed in the building due to the Contractor's failure to meet the scheduled completion dates.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 14 00

WORK RESTRICTIONS

ALLOWANCES Section 01 21 00

Abatement and Demolition of 4505 S. Alston Ave.

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. The Drawings and provisions of the General Conditions, Supplementary General Conditions, and other Sections included under Division 1, General Requirements, are included as a part of this Section as though bound herein.
- B. Designate in Pay Requests and Schedule of Values separate item for cost allowances. Also breakdown costs as follows:
 - 1. Products/materials
 - 2. Work

1.2 ALLOWANCES FOR PRODUCTS/MATERIAL:

- A. Purchase product/material under allowance only as directed by A/E.
- B. Amount of allowance includes:
 - 1. Net cost of product.
 - 2. Delivery to the site.
 - 3. Applicable taxes.
- C. In addition to amount of allowance, include in bid, for inclusion in Contract Sum, Contractor's cost for:
 - 1. Handling at site including unloading, uncrating, and storage.
 - 2. Protection from elements, from damage.
 - 3. Labor, installation, and finishing.
 - 4. Other expenses (e.g., testing, adjusting, and balancing) required to completed installation.
 - 5. Overhead and profit.

1.3 ALLOWANCES FOR WORK

- A. Provide Work under allowance only as directed by A/E.
- B. Amount of Allowance includes:
 - 1. Net cost of product.
 - 2. Delivery to the site.
 - 3. Applicable taxes.
 - 4. Handling at site including unloading, uncrating, and storage.
 - 5. Protection from elements, from damage.
 - 6. Labor, installation, and finishing.
 - 7. Other expenses required to complete installation.

ALLOWANCES Section 01 21 00

8. A fixed percentage for overhead and profit. Overhead shall include supervision; superintendence; wages of time-keepers, watchmen, and clerks; hand tools, general office expense; and other expenses not included in "cost" under 1. Through 8. Above.
 - a) For Work (labor, materials, and equipment) completed by the Contractor with his own labor, 10 percent shall be added for overhead and profit.
 - b) For Work (labor, materials, and equipment) completed by subcontractor of the Contractor, 5 percent shall be added for overhead and profit.

14 SELECTION OF PRODUCT/MATERIAL

A. Architect/Engineer's Duties

1. Consult with Contractor in consideration of product/material and suppliers.
2. Make selection, designate product/material to be used.
3. Notify Contractor in writing, designating:
 - a) Product, size, color, and texture
 - b) Supplier
 - c) Cost, delivered at site

B. Contractor's Duties

1. Assist A/E in determining qualified suppliers.
2. Obtain proposals from suppliers when requested by Architect/Engineer.
3. Make appropriate recommendations for consideration by Architect/Engineer.
4. Notify A/E in writing, of effect anticipated by selection of product or supplier under consideration on:
 - a) Construction Schedule.
 - b) Contract Sum.
5. On notification of selection enter into purchase agreement with designated supplier.
6. Arrange for delivery and unloading.
7. Promptly inspect product for damage or defects.
8. Submit claims for transportation damage.

15 ADJUSTMENT OF CASH ALLOWANCES

- A. Unused amounts of moneys included under allowances shall be credited to the Owner by deduct change order prior to approval of Final Application for Payment.

PART 2 – PRODUCTS (NOT APPLICABLE)

ALLOWANCES Section 01 21 00

PART 3 – EXECUTION

31 RENOVATION/UNFORESEENS ALLOWANCE

- A. Renovation/Unforeseen Allowance for those items and Work hidden, undetectable, or unforeseen and not visible from pre-bid, on-site observation, or not shown, called-for, or reasonably implied in the Contract Documents and which is in compliance with N.C. Building Code and Division of Facility Services requirements. Refer to Schedule at end of section.

32 UNKNOWN/UNFORESEEN SITE CONDITIONS ALLOWANCE:

- A. Unknown/Unforeseens Site Conditions Allowance for wetlands, groundwater & additional erosion control measures required by local code enforcement officials and those subsurface items and Work hidden, undetectable, or unforeseen and not visible from pre-bid, on-site observation, or not shown, called-for, or reasonably implied in the Contract Documents and which is in compliance with N.C. Building Code and Division of Facility Services requirements. Refer to Schedule at end of section.
- B. Other conditions shall be addressed as they are discovered and their remedies are established.

33 SCHEDULE OF ALLOWANCES

- A. Allowances for Work: Note: If not described below, refer to Article 1.3 for description of what is included in the allowance.

Allowance No. 1: 3.1

Schedule of Allowances

A. Quantity Allowance

General: The Contractor shall include the following quantity allowances in the Base Bid, **based upon the unit prices listed in section 012200 and attached to the Bid Form of Proposal.**

NOTE: All charges against allowances for Rock, Unsuitable Soils and Borrow shall be applicable only under the following conditions:

- a. Grading (cut) has been accomplished to subgrade.
 - b. The location has been identified.
 - c. The Architect has been notified of location and anticipated extent of rock, unsuitable soil and borrow.
 - d. The Owner's testing agency is notified to evaluate, make recommendations, monitor related operations, and to measure quantities.
 - e. Appropriate calculations and records are kept by the Contractors for verification with the Architect and Owner's testing agency.
 - f. The time of performance for the quantities listed in the allowance schedule are to be included in the contractor's original base bid construction schedule as critical path activities. No extensions of time will be granted for these activities unless the amount listed in the allowance schedule is exceeded, and only if the excess amount impacts the critical path of the project.
1. **Trench Rock Excavation & Offsite Disposal:** Under the Base Bid, include an allowance for the removal of cubic yards of trench rock and hauling to an **OFFSITE** location for disposal.

ALLOWANCES Section 01 21 00

2. **Trench Rock Excavation & Onsite Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of trench rock and hauling it to an **ONSITE** location for disposal as directed by the Architect.
3. **Unsuitable Soils in Trench Excavation & Offsite Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of unsuitable soils in Trench Excavations and hauling it to an **OFFSITE** location for disposal.
4. **Unsuitable Soils in Trench Excavation & On-site Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of unsuitable soils in Trench Excavations and hauling it to an **OFFSITE** location for disposal.
5. **Trench Borrow Backfill & Compaction Using Offsite Fill:** Under the Base Bid, include an allowance for bringing in _____ **cubic yards** of **OFFSITE** structural fill, compacted in place per the Specifications.
6. **Trench Borrow Backfill & Compaction Using On-Site Fill:** Under the Base Bid, include an allowance for _____ **cubic yards** of **On-Site** structural fill, mined, moved and compacted in place per the Specifications.
7. **Mass Unsuitable Soil Removal & Offsite Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of unsuitable soil and hauling it to an **OFFSITE** location for disposal.
8. **Mass Unsuitable Soils Removal & On-Site Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of unsuitable soil and hauling it to an **ONSITE** location for disposal as directed by the Architect.
9. **Mass Rock Excavation & Offsite Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of mass rock and hauling it to an **OFFSITE** location for disposal.
10. **Mass Rock Excavation & On-Site Disposal:** Under the Base Bid, include an allowance for the removal of _____ **cubic yards** of mass rock and hauling it to an **ONSITE** location for disposal as directed by the Architect.
11. **Mass Borrow Backfill & Compaction Using Offsite Fill:** Under the Base Bid, include an allowance for bringing in _____ **cubic yards** of **OFFSITE** structural fill, compacted in place per the Specifications.
12. **Mass Borrow Backfill & Compaction Using On-Site Fill:** Under the Base Bid, include an allowance for _____ **cubic yards** of **On-Site** structural fill, mined, moved and compacted in place per the Specifications.
13. **Smoke Detectors:** Under the Base Bid, include an allowance for _____ **Units**,
Furnished/Installed/Programmed complete.*
14. **Horns / Strobes:** Under the Base Bid, include an allowance for _____ **Units**,
Furnished/Installed/Programmed complete.*
15. **Pull Stations:** Under the Base Bid, include an allowance for _____ **Units**,
Furnished/Installed/Programmed complete.*

* **Measurement: The quantity of Horn/Strobe, Smoke Detector and Pull Station Devices to be paid for will be the actual number of devices installed, but not indicated on the Drawings.**

- B. Lump Sum Allowance
1. [ENTER ALLOWANCES HERE]

END OF SECTION 01 21 00

UNIT PRICES Section 01 22 00

Abatement and Demolition of 4505 S. Alston Ave.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, general provisions of the Contract, including General Conditions, other Division 1 Specification Sections, and all other contract bid documents apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for unit prices.
- B. Specific requirements of each contract are also indicated in individual Specification Sections, All Bid Documents and on Drawings.
- C. Unit price is an amount proposed by bidders, as a price per unit of measurement for materials or services added to or deducted from the Contract Sum by appropriate modification, if estimated quantities of Work required by the Contract Documents are increased or decreased.

1.3 PROCEDURES

- A. Unit prices include all necessary material, plus cost for delivery, installation, insurance, overhead, and profit. Unit Prices represent a full and total cost for the listed unit.
Refer to individual Specification Sections for work that requires establishment of unit prices. Methods of measurement and payment for unit prices are specified in those Sections.
Measurement: The quantity of unsuitable soil or rock and any fill (mass or trench) to be paid for will be the actual number of "Bank" cubic yards removed as measured by the Owner's Testing Agency.
- B. Durham Public Schools reserves the right to reject Contractor's measurement of work-in-place that involves use of established unit prices and to have this work measured, at Durham Public Schools' expense, by an independent surveyor acceptable to Contractor. If the findings are that the Contractor's measurement of work-in-place is inaccurate, the Contractor shall bear the responsibility for said survey.
- C. List of Unit Prices: A list of unit prices is included in this section. Specification Sections referenced in the schedule contain requirements for materials described under each unit price. The bidder(s) shall submit a completed unit price sheet along with the bid. Failure to include unit prices as required may be grounds for rejection of the bid.
- D. Unit Prices found to be unreasonable in cost may constitute grounds for rejection of the bid.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

UNIT PRICES

UNIT PRICES Section 01 22 00

3.1 LIST OF UNIT PRICES **(INCLUDE WITH BID)**

UNIT PRICES APPLICABLE TO ALL CONTRACTORS

[Note to designer: use only unit prices applicable to this project; remove all other unit prices not applicable from this document. Please remove this note prior to finalization of bid documents]

UNIT PRICES Section 01 22 00

Unit Price U-1 Trench Rock Excavation & Offsite Disposal

\$_____per Cubic Yard.

Unit Price U-2 Trench Rock Excavation & On-site Disposal

\$_____per Cubic Yard.

Unit Price U-3 Unsuitable Soils in Trench Excavation & Offsite Disposal

\$_____per Cubic Yard.

Unit Price U-4 Unsuitable Soils in Trench Excavation & On-site Disposal

\$_____per Cubic Yard.

Unit Price U-5 Trench Borrow Backfill & Compaction Using Offsite Fill

\$_____per Cubic Yard.

Unit Price U-6 Trench Borrow Backfill & Compaction Using On-Site Fill

\$_____per Cubic Yard.

Unit Price G-1 Mass Unsuitable Soil Removal & Offsite Disposal

\$_____per Cubic Yard

Unit Price G-2 Mass Unsuitable Soils Removal & On-Site Disposal

\$_____per Cubic Yard

Unit Price G-3 Mass Rock Excavation & Offsite Disposal

\$_____per Cubic Yard

Unit Price G-4 Mass Rock Excavation & On-Site Disposal

\$_____per Cubic Yard

Unit Price G-5 Mass Borrow Backfill & Compaction Using Offsite Fill

\$_____per Cubic Yard

Unit Price G-6 Mass Borrow Backfill & Compaction Using On-Site Fill

\$_____per Cubic Yard

END OF SECTION 01 22 00

MODIFICATION PROCEDURES

Abatement and Demolition of 4505 S. Alston Ave.

PART 1 - GENERAL

.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for handling and processing contract modifications.
- B. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Submittals" for requirements for the Contractor's Construction Schedule.
 - 2. Division 1 Section "Applications for Payment" for administrative procedures governing Applications for Payment.
 - 3. Division 1 Section "Product Substitutions" for administrative procedures for handling requests for substitutions made after award of the Contract.

.3 MINOR CHANGES IN THE WORK

- A. The **Program Manager** will issue supplemental instructions authorizing minor changes in the Work, not involving adjustment to the Contract Sum or Contract Time.

.4 CHANGE ORDER PROPOSAL REQUESTS

- A. Owner-Initiated Proposal Requests: The **Program Manager** will issue a detailed description of proposed changes in the Work that will require adjustment to the Contract Sum or Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
 - 1. Proposal requests issued by the **Program Manager** are for information only. Do not consider them as an instruction either to stop work in progress or to execute the proposed change.
 - 2. Within 10 days of receipt of a proposal request, submit an estimate of cost necessary to execute the change to the **Program Manager** for the Owner's review.
 - a. Include a list of quantities of products required and unit costs, with the total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
 - b. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 - c. Include a statement indicating the effect the proposed change in the Work will have on the Contract Time.
- B. Contractor-Initiated Proposals: When latent or unforeseen conditions require modifications to the Contract, the Contractor may propose changes by submitting a request for a change to the Program Manager.

MODIFICATION PROCEDURES

1. Include a statement outlining the reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and Contract Time.
 2. Include a list of quantities of products required and unit costs, with the total amount of purchases to be made. Where requested, furnish survey data to substantiate quantities.
 3. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 4. Comply with requirements in Section "Product Substitutions" if the proposed change requires substitution of one product or system for a product or system specified.
- C. Proposal Request Form: Use **Change Order Proposal Form** for Change Order Proposal Requests.
1. Include sufficient documentation of quantities and unit prices to allow evaluation of quantities with respect to the work required and the intent of the change. Require subcontractors to provide comparable documentation for their work.
 2. Do not use lump sum pricing for any trade or subcontract in excess of \$500.00.
 3. Permit charge for overhead and profit determined as follows:
 - a. for the Contractor, for any work performed by his employees or agents 10% of the costs. Deduct 5% for deductive change orders;
 - b. for the Contractor, for work performed by his Subcontractor, 5% of the amount due the subcontractor; and
 - c. for each Subcontractor, for work performed by such Subcontractor, his employees and agents, 10% of the costs.
 - d. "Costs" shall not include home-office charge or expenses, supervisions, superintendents, wages of time keepers, watchmen and clerks, small tools, incidentals, general office expense and all other expenses generally constituting overhead or general conditions. The proposals from the contractor for extra work shall include a breakdown showing cost for materials, labor, insurance and overhead and profit and bonds.
 4. The maximum total combined markup for bonds and insurance will be two (2) percent of the total amount.

.5 ALLOWANCES

- A. Allowance Adjustment: For allowance-cost adjustment, base each Change Order Proposal on the difference between the actual purchase amount and the allowance, multiplied by the final measurement of work-in-place. Where applicable, include reasonable allowances for cutting losses, tolerances, mixing wastes, normal product imperfections, and similar margins.
1. Include installation costs in the purchase amount only where indicated as part of the allowance.
 2. When requested, prepare explanations and documentation to substantiate the margins claimed.
 3. The Owner reserves the right to establish the actual quantity of work-in-place by independent quantity survey, measure, or count.
- B. Submit claims for increased costs because of a change in scope or nature of the allowance described in the Contract Documents, whether for the purchase order amount or the Contractor's handling, labor, installation, overhead, and profit. Submit claims within 21 days of receipt of the Change Order or Construction Change Directive authorizing work to proceed. The Owner will reject claims submitted later than 21 days.

MODIFICATION PROCEDURES

1. Do not include the Contractor's or subcontractor's indirect expense in the Change Order cost amount unless it is clearly shown that the nature or extent of work has changed from what could have been foreseen from information in Contract Documents.
2. No change to the Contractor's indirect expense is permitted for selection of higher or lower-priced materials or systems of the same scope and nature as originally indicated.

.6 CONSTRUCTION CHANGE DIRECTIVE

- A. Construction Change Directive: When the Owner and the Contractor disagree on the terms of a Proposal Request, the **Program Manager** may issue a Construction Change Directive. The Construction Change Directive instructs the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.
 1. The Construction Change Directive contains a complete description of the change in the Work. It also designates the method to be followed to determine change in the Contract Sum or Contract Time.
- B. Documentation: Maintain detailed records on a time and material basis of work required by the Construction Change Directive.
 1. After completion of the change, submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.

.7 CHANGE ORDER PROCEDURES

- A. Upon the Owner's approval of a Proposal Request, the Program Manager will issue a Change Order for signatures of the Owner and the Contractor.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 01 26 00

Request for Information

Date: _____

[Insert Project Name]
[Insert Project Location]

To: [Insert Architect]

[Insert Address]
Fax: [Insert Fax Number]

RFI Number: _____

In reference to the above listed project, we are hereby requesting a clarification, determination and/or information concerning the following:

Section Number: _____ Drawing Number: _____

Requested By: _____ Date of Request: _____

Title: _____ Date Reply Required: _____

In reply to your request, be advised: _____

Reply By: _____ Date of Reply: _____

Title: _____ Date Reply Returned: _____

PAYMENT PROCEDURES

PART 1 - GENERAL

.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

.2 SUMMARY

- A. This Section specifies administrative and procedural requirements governing the Contractor's Applications for Payment.
- B. Related Sections: The following Sections contain requirements that relate to this Section.
 - 1. Schedules: The Contractor's Construction Schedule and Submittal Schedule are specified in Division 1 Section "Submittals."

.3 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the Schedule of Values with preparation of the Contractor's Construction Schedule.
 - 1. Correlate line items in the Schedule of Values with other required administrative schedules and forms, including:
 - a. Contractor's Construction Schedule.
 - b. Application for Payment forms, including Continuation Sheets.
 - c. Schedule of allowances.
 - d. List of products.
 - e. List of principal suppliers and fabricators.
 - f. Schedule of submittals.
 - 2. Submit the Schedule of Values to the Program Manager at the earliest possible date but no later than 7 days before the date scheduled for submittal of the initial Applications for Payment.
- B. Format and Content: Use the Project Manual table of contents as a guide to establish the format for the Schedule of Values. Provide at least one line item for each Specification Section.
 - 1. Identification: Include the following Project identification on the Schedule of Values:
 - a. Project name and location.
 - b. Name of the [Architect/Engineer].
 - c. Project number.
 - d. Contractor's name and address.

PAYMENT PROCEDURES

- e. Date of submittal.
2. Arrange the Schedule of Values in tabular form with separate columns to indicate the following for each item listed:
 - a. Related Specification Section or Division.
 - b. Description of Work.
 - c. Name of subcontractor.
 - d. Name of manufacturer or fabricator.
 - e. Name of supplier.
 - f. Change Orders (numbers) that affect value.
 - g. Dollar value.
 - 1) Percentage of Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
3. Provide a breakdown of the Contract Sum in sufficient detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Break principal subcontract amounts down into several line items.
4. Round amounts to nearest whole dollar; the total shall equal the Contract Sum.
5. Provide a separate line item in the Schedule of Values for each part of the Work where Applications for Payment may include materials or equipment, purchased or fabricated and stored, but not yet installed.
 - a. Differentiate between items stored on-site and items stored off-site. Include requirements for insurance and bonded warehousing, if required.
6. **Provide a separate line item in the Schedule of Values for each of the following items with the corresponding values and dollar amounts:**
 - **As-Built Drawing Documents** **1/2% of total contract value**
 - **O & M Manuals** **1/2 % of total contract value**
 - **Warranty Binders** **1 % of total contract value**
7. Provide separate line items on the Schedule of Values for initial cost of the materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
8. Margins of Cost: Show line items for indirect costs and margins on actual costs only when such items are listed individually in Applications for Payment. Each item in the Schedule of Values and Applications for Payment shall be complete. Include the total cost and proportionate share of general overhead and profit margin for each item.
 - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the Schedule of Values or distributed as general overhead expense, at the Contractor's option.
9. Schedule Updating: Update and resubmit the Schedule of Values prior to the next Applications for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

PAYMENT PROCEDURES

4 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by the Program Manager and paid for by the Owner.
 - 1. The initial Application for Payment, the Application for Payment at time of Substantial Completion, and the final Application for Payment involve additional requirements.
- B. Payment-Application Times: The date for each progress payment application is the seventh day of each month. The period covered by each Application for Payment starts on the day following the end of the preceding period and ends 7 days prior to the date for each progress payment.
- C. Payment-Application Forms: Use AIA Document G702 and Continuation Sheets G703 as the form for Applications for Payment. Use the Sales Tax form to report applicable state and county sales taxes. Include a completed Payment Application Cover Sheet with each application.
- D. Application Preparation: Complete every entry on the form. Include notarization and execution by a person authorized to sign legal documents on behalf of the Contractor. The Program Manager will return incomplete applications without action.
 - 1. Entries shall match data on the Schedule of Values and the Contractor's Construction Schedule. Use updated schedules if revisions were made.
 - 2. Include amounts of Change Orders and Construction Change Directives issued prior to the last day of the construction period covered by the application.
- E. Sales Tax Summary – The project is subject to a sales tax rebate for the Owner. Each contractor and subcontractor shall submit a summary of payments made and invoices received including sales taxes for the month being billed. Each contractor shall maintain these accounts on the form included in this project manual entitled Certificate Concerning North Carolina State and County Sales Tax (hereinafter referred to as the “Sales Tax Form”). All supporting documentation is required on a monthly basis along with the payment application. Supporting documentation is identified on the form. When the Contractor submits multiple Sales Tax Forms, he shall also provide a notarized summary form that lists each Subcontractor and the taxes reported by that subcontractor. A total for each column shall be computed and reported on this summary sheet. This summary sheet shall be the first sheet of the sales tax reports submitted.
- F. Transmittal: Submit two (2) signed and notarized original copies of each Application for Payment (including separately notarized sales tax reports) to the **Program Manager** by a method ensuring receipt within 24 hours. Both copies shall be complete, including waivers of lien and similar attachments, when required.
 - 1. Transmit each copy with a transmittal form listing attachments and recording appropriate information related to the application, in a manner acceptable to the Program Manager.
- G. Waivers of Mechanics Lien: With each Application for Payment, submit waivers of mechanics liens from subcontractors, sub-subcontractors and suppliers for the construction period covered by the previous application.

PAYMENT PROCEDURES

2. Submit partial waivers on each item for the amount requested, prior to deduction for retainage, on each item. Retainage is to be calculated at a rate of 5% and will be withheld in accordance with the requirements set forth in the N.C. General Statutes
 3. When an application shows completion of an item, submit final or full waivers.
 4. The Owner reserves the right to designate which entities involved in the Work must submit waivers.
 5. Waiver Forms: Submit waivers of lien on forms, and executed in a manner, acceptable to the Owner.
- H. Initial Application for Payment: Administrative actions and submittals, that must precede or coincide with submittal of the first Application for Payment, include the following:
1. List of subcontractors.
 2. List of principal suppliers and fabricators.
 3. Schedule of Values.
 4. Contractor's Construction Schedule (preliminary if not final).
 5. Schedule of principal products.
 6. Submittal Schedule (preliminary if not final).
 7. List of Contractor's staff assignments.
 8. List of Contractor's principal consultants.
 9. Copies of building permits.
 10. Copies of authorizations and licenses from governing authorities for performance of the Work.
 11. Initial progress report.
 12. Report of preconstruction meeting.
 13. Certificates of insurance and insurance policies.
 14. Performance and payment bonds.
 15. Data needed to acquire the Owner's insurance.
 16. Initial settlement survey and damage report, if required.
 17. Completed Payment Application coversheet, and all items itemize thereon.
- I. Application for Payment at Substantial Completion: Following issuance of the Certificate of Substantial Completion, submit an Application for Payment.
1. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
 2. Administrative actions and submittals that shall precede or coincide with this application include:
 - a. Occupancy permits and similar approvals.
 - b. Warranties (guarantees) and maintenance agreements.
 - c. Test/adjust/balance records.
 - d. Maintenance instructions.
 - e. Startup performance reports.
 - f. Final cleaning.
 - g. Application for reduction of retainage and consent of surety.
 - h. Advice on shifting insurance coverages.
 - i. Final progress photographs.

PAYMENT PROCEDURES

- j. List of incomplete Work, recognized as exceptions to **Program Manager's** Certificate of Substantial Completion.
- J. Final Payment Application: Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include the following:
- 1. Completion of Project closeout requirements.
 - 2. Completion of items specified for completion after Substantial Completion.
 - 3. Ensure that unsettled claims will be settled.
 - 4. Ensure that incomplete Work is not accepted and will be completed without undue delay.
 - 5. Transmittal of required Project construction records to the Owner.
 - 6. Proof that taxes, fees, and similar obligations were paid.
 - 7. Removal of temporary facilities and services.
 - 8. Removal of surplus materials, rubbish, and similar elements.
 - 9. Submit Appendix E MBE Documentation for Contract Payments as documentation of payment to minority businesses for work on the Project.
 - 10. Submit Lien Waivers from subcontractors and major equipment suppliers.
 - 11. Submit Affidavit of Payment of Debts and Claims with all supporting documentation.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 00 62 76

PROJECT MANAGEMENT & COORDINATION

Abatement and Demolition of 4505 S. Alston Ave.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings, general provisions of the Contract, including General Conditions, other Division 1 Specification Sections, and all other contract bid documents apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative provisions for coordinating construction operations on the Project including, but not limited to, the following:
 - 1. General information.
 - 2. Project coordination procedures.
 - 3. Administrative and supervisory personnel.
 - 4. Project meetings.
 - 5. Pre-Job Submittals
 - 6. Progress Meetings and Reports
 - 7. Post-Job Submittals
 - 8. Special Reports
 - 9. Contingency Plan
- B. Each contractor shall participate in coordination requirements. Certain areas of responsibility will be assigned to a specific contractor.
- C. Specific requirements of each contract are also indicated in individual Specification Sections, All Bid Documents.

1.3 GENERAL

- A. All asbestos abatement contractors will be licensed general contractors in either the specialty interior, building, unclassified or asbestos categories by the North Carolina Licensing Board of General Contractors and limited for the bid amount.
- B. The contractor shall be responsible for inspecting the site prior to bidding to confirm the scope of the work. Any quantities listed by the designer in the plans, specifications or survey are done so as approximations. The actual quantities of asbestos-containing material to be encountered is the responsibility of the contractor.
- C. The contractor shall furnish and is responsible for all costs including, but not limited to: permit fees, containment preparation, labor, materials, services, insurance, bonding, and equipment necessary to carry out the abatement operations and disposal of all asbestos material in accordance with the plans and specifications, the EPA and OSHA regulations, and any applicable state and local government regulations.
- D. The contractor/employer has and assumes the responsibility of proceeding in such a manner that he offers his employees a workplace free of recognized hazards causing or likely to cause death or serious injury. The contractor shall be responsible for performing this abatement and disposal so that airborne asbestos fiber levels do not exceed established levels.
- E. The contractor will be responsible for all costs associated with employee monitoring to meet the OSHA requirements.
- F. The contractor is responsible for all costs, including additional visits, should the designer and/or

PROJECT MANAGEMENT & COORDINATION

the industrial hygiene firm determine that the contractor failed a final inspection. Notification and scheduling of the final inspection during the project is the responsibility of the contractor. The contractor will allow a minimum notice of 48 hours unless a different time frame is agreed upon by the designer and the contractor.

1.4 COORDINATION

- A. Coordination: The General Contractor shall coordinate construction operations included in various Sections of the Specifications to ensure efficient and orderly installation of each part of the Work. The GC shall coordinate construction operations, included in different Sections that depend on each other for proper installation, connection, and operation. The GC shall be the Project Expediter and Project Coordinator on this project.
 - 1. The GC shall schedule construction operations in sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 2. Coordinate installation of different components with other contractors to ensure maximum accessibility for required maintenance, service, and repair.
 - 3. Make adequate provisions to accommodate items scheduled for later installation.

- B. If necessary, all Prime Contractors shall prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and list of attendees at meetings.
 - 1. Prepare similar memoranda for architect, Owner, Owner's rep & Program / Construction Manager and separate contractors if coordination of their Work is required.

- C. Administrative Procedures: The GC shall coordinate scheduling and timing of required administrative procedures with other construction activities and activities of other contractors to avoid conflicts and to ensure orderly progress of the Work. Such administrative activities include, but are not limited to, the following: It is the responsibility of all Prime Contractors to coordinate with GC in the preparation of all scheduling and coordination issues.
 - 1. Preparation of Contractor's Construction Schedule.
 - 2. Preparation of the Schedule of Values.
 - 3. Installation and removal of temporary facilities and controls.
 - 4. Delivery and processing of submittals.
 - 5. Progress meetings.
 - 6. Preinstallation conferences.
 - 7. Project closeout activities.

1.5 ADMINISTRATIVE AND SUPERVISORY PERSONNEL

- I. General: In addition to Project superintendent, provide other administrative and supervisory personnel as required for proper performance of the Work.

Supervisor

- 1. All supervisors shall be accredited by the Health Hazards Control Branch (HHCB).

PROJECT MANAGEMENT & COORDINATION

2. All supervisors on the project shall have two years experience in the administration and supervision of asbestos abatement projects including work practices, protective measures for building and personnel, disposal procedures, etc.
3. One supervisor shall be provided for every 10 workers inside the containment. A minimum of one supervisor shall be provided per project.
4. The contractor shall have at least one employee on the job site in either a foreman or supervisor's position who is bilingual in the appropriate languages when employing workers who do not speak fluent English.
6. A minimum of one supervisor per company shall have attended a 24 hour respiratory protection course.

Worker

1. All workers shall be accredited by the HHCB.

Competent Person

1. A competent person, as defined in the OSHA asbestos standard 29 CFR 1926.1101, employed by the contractor must be outside the work area at all times to monitor activity, ensure containment security, provide information to visitors, and provide access to the work area.

Employees

1. The contractor is responsible for the behavior of workers within his employment. If at any time during the contracted work, any of his employees are judged to exhibit behavior unfitting for the area or judged to be a nuisance by the owner or designer, the contractor shall remove them immediately from the project.
2. The contractor shall be responsible for compliance with the following concerning employee behavior:
 - a. Under no circumstances are alcohol, drugs or any other type of controlled substances permitted on state property.
 - b. All workers are restricted to the construction project site only.
 - c. All vehicles must be parked in areas prearranged with the owner.
 - d. All workers must conform to the following basic dress code when in public areas of the project confines: long pants, shirts, no tank tops, no shorts, no bare backs.
 - e. The contractor is responsible for disposal of all trash brought on state property by his employees, including drink cans, bottles or other food containers and wrappers.
3. Failure to adhere to these rules could result in criminal prosecution and/or removal from the State property.

16 PROJECT MEETINGS

- A. General: Schedule and conduct meetings and conferences at Project site, unless otherwise indicated.

1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify architect, Owner, Owner's rep & Program / Construction

PROJECT MANAGEMENT & COORDINATION

Manager, of scheduled meeting dates and times.

2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees at least 3 days prior to the scheduled meeting..
 3. Minutes: Record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including, architect, Owner, Owner's rep & Program / Construction Manager within 2 days of the meeting.
- B. Preconstruction Conference: The architect will schedule a pre-construction conference, at a time convenient to contractors, architect, Owner, Owner's rep & Program / Construction Manager, but no later than 10 days after notice to proceed. The conference will be at Project site or another convenient location. Conduct the meeting to review responsibilities and personnel assignments.
- C. Attendees: Authorized representatives of architect, Owner, Owner's rep & Program / Construction Manager, and their consultants; Contractor and its superintendent; major subcontractors; manufacturers; suppliers; and other concerned parties shall attend the conference. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.

Agenda: Discuss items of significance that could affect progress, including the following:

- Tentative construction schedule.
- Phasing.
- Critical work sequencing.
- Designation of responsible personnel.
- Procedures for processing field decisions and Change Orders.
- Procedures for processing Applications for Payment.
- Distribution of the Contract Documents.
- Submittal procedures.
- Preparation of Record Documents.
- Use of the premises.
- Responsibility for temporary facilities and controls.
- Parking availability.
- Office, work, and storage areas.
- Equipment deliveries and priorities.
- First aid.
- Security.
- Progress cleaning.
- Working hours.

1.7 PRE-JOB SUBMITTALS

- A. Submit three complete, bound sets of pre-job submittals to the designer at least 10 days prior to start of work. Work is prohibited until submittal package has been reviewed and approved by designer. A copy of the approved submittals shall be kept in a three-ring binder (project log) by the contractor at the project site in the clean room or in the on-site office of the contractor.
1. Notifications: Provide copies of Asbestos Permit Application and Notification for Demolition/Renovation (DEHNR 3768), which provide written notice to all required agencies, including North Carolina HHCB. Provide notification letters to local EMS, fire and police departments.
 2. Employee List: Provide copies of lists of supervisors and workers, along with their accreditation and Social Security numbers, to be utilized on the project.

PROJECT MANAGEMENT & COORDINATION

3. Permits: Provide copies of approval of a waste disposal site in compliance with 40 CFR 61.154.
4. Medical: Provide copies of N.C. Dusty Trade cards. Include individually signed and notarized forms by each worker to be utilized on the project documenting that each is actively involved in a company employee medical surveillance program.
5. Respirator Training: Copies of most recent fit testing records, individually signed for each worker to be utilized on the project.
6. Project Schedule: Time schedule for the project, outlining the proposed start, setup, clearances, etc. for the various phases of the project.
7. Initial Exposure Assessment: As required by the OSHA construction asbestos standard 29 CFR 1926.1101.
8. Any other programs or training as outlined by the OSHA and EPA standards

1.8 Progress Meetings:

Conduct progress meetings at weekly intervals. Coordinate dates of meetings with preparation of payment requests.

Attendees: In addition to architect, Owner, Owner's rep & Program / Construction Manager, each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work within 24 hours of notification of an issue needing action by one or more parties.

Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.

- A. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time. (See Section 01311 for specific scheduling requirements).
- B. Review present and future needs of each entity present, including the following:
 1. Interface requirements.
 2. Sequence of operations.
 3. Status of submittals.
 4. Deliveries.
 5. Off-site fabrication.
 6. Access.
 7. Site utilization.
 8. Temporary facilities and controls.
 9. Work hours.
 10. Hazards and risks.
 11. Progress cleaning.
 12. Quality and work standards.
 13. Change Orders.
 14. Documentation of information for payment requests.

PROJECT MANAGEMENT & COORDINATION

Reporting: Distribute minutes of the meeting to each party present and to parties who should have been present. Include a brief summary, in narrative form, of progress since the previous meeting and report.

- C. Schedule Updating: Revise Contractor's Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

Coordination Meetings: Conduct Project coordination meetings at weekly intervals. Project coordination meetings are in addition to specific meetings held for other purposes, such as progress meetings and pre-installation conferences.

Attendees: In addition to architect, Owner, Owner's rep & Program / Construction Manager each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work

Agenda: Review and correct or approve minutes of the previous coordination meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.

- D. Combined Contractor's Construction Schedule: Review progress since the last coordination meeting. Determine whether each contract is on time, ahead of schedule, or behind schedule, in relation to Combined Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
- E. Schedule Updating: Revise Combined Contractor's Construction Schedule after each coordination meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with report of each meeting.
- F. Review present and future needs of each contractor present, including the following:
1. Interface requirements.
 2. Sequence of operations.
 3. Status of submittals.
 4. Deliveries.
 5. Off-site fabrication.
 6. Access.
 7. Site utilization.
 8. Temporary facilities and controls.
 9. Work hours.
 10. Hazards and risks.
 11. Progress cleaning.
 12. Quality and work standards.
 13. Change Orders.

Reporting: General Contractor to record meeting results and distribute copies within 2 working days to everyone in attendance and to others affected by decisions or actions resulting from each meeting.

19 POST-JOB SUBMITTALS

PROJECT MANAGEMENT & COORDINATION

- A. Submit three complete, bound sets of post-job submittals to the designer following the final completion of the work. Requests for final payment will not be approved until the submittal package has been reviewed and approved by the designer.
1. Affidavits: Contractor's affidavit of payment of debts and claims, affidavit of release of liens, and consent of surety company to final payment.
 2. Manifest: North Carolina Asbestos Waste Shipment Record (DEHNR 3787) receipt from landfill operator which acknowledges the contractor's delivery(s) of waste material. Include date, quantity of material delivered and signature of authorized representative of landfill. Also, include name of waste transporter.
 3. Daily Log: A notarized copy of all daily logs showing the following: name, date, entering and leaving time, company or agency represented, reason for entry for all persons entering the work area, employee's daily air monitoring data as required by the OSHA standard and written comments by inspectors, industrial hygienists, designers and visitors.
 4. Medical: Copies of N.C. Dusty Trade cards, worker release forms, asbestos training certification forms and respirator training documentation of all new employees hired during the project.
 7. Special Reports: All documents generated under Section 01043.1.06.

1.10 SPECIAL REPORTS

- A. General: Except as otherwise indicated, submit special reports to designer within one day of occurrence requiring special report, with copies to others affected by occurrence. Also keep a copy in the project log book.
- B. Reporting Unusual Events: When an event of unusual and significant nature occurs at site (examples: failure of negative pressure system, rupture of temporary enclosures), prepare and submit a special report to the designer immediately, listing chain of events, persons participating, response by contractor's personnel, evaluation of results or effects, and similar pertinent information. When such events are known or predictable in advance, advise designer in advance at earliest possible date.
- C. Reporting Accidents: Prepare and submit reports of significant accidents, at site and anywhere else work is in progress. Record and document date and actions; comply with industry standards for reporting accidents. For this purpose, a significant accident is defined to include events where personal injury is sustained, or property loss of substance is sustained, or where the event posed a significant threat of loss or personal injury.

1.11 CONTINGENCY PLAN

- A. Contingency Plan: Prepare a contingency plan for emergencies including fire, accident, power failure, negative pressure system failure, supplied air system failure (if applicable), evacuation of injured persons for both life threatening and non-life threatening, or any other event that may require modification or abridgment of decontamination or work area isolation procedures. Include in plan specific procedures for decontamination or work area isolation. Note that nothing in this specification should impede safe exiting or providing of adequate medical attention in the event of an emergency. Keep these plans in the on-site office.
- B. Post outside/in clean room of Personnel Decontamination Unit:
1. Telephone numbers and locations of emergency services including but not limited to, fire, ambulance, doctor, hospital, police, power company, telephone company and the North Carolina

PROJECT MANAGEMENT & COORDINATION

HHC.B.

2. A copy of Material Safety Data Sheets (MSDS) for any chemicals used during the asbestos project.
3. The contractor shall post asbestos signs in each appropriate language as per the OSHA 29 CFR 1926.1101 standard.

PRODUCTS (Not Used)

EXECUTION (Not Used)

END OF SECTION 01 31 00

CONSTRUCTION PROGRESS DOCUMENTATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
 - 1. Schedule.
 - 2. Submittals Schedule.
 - 3. Daily construction reports.
 - 4. Material location reports.
 - 5. Field condition reports.
 - 6. Special reports.
 - 7. Construction photographs.
- B. Specific requirements of each contract are also indicated in individual Specification Sections, All Bid Documents and on Drawings.
- C. Construction Photographs: Submit two prints of each photographic view (4 views total) within five working days of taking photographs, must be submitted with each monthly pay application.
 - 1. Format: Digitally formatted in a manner acceptable to the architect, Owner, Owner's rep & Program / Construction Manager, and provided electronically.
 - 2. Identification: On each print, provide an electronically applied label with the following information:
 - a. Name of Project.
 - b. Name and address of photographer.
 - c. Name of Architect and Owner.
 - d. Name of Contractor.
 - e. Date photograph was taken.
 - f. Description of vantage point, indicating location, direction (by compass point), and elevation or story of construction.
 - 3. Negatives: Submit a complete set of photographic negatives or diskette containing electronic image file in protective envelopes with each submittal of prints. Identify date photographs were taken.

CONSTRUCTION PROGRESS DOCUMENTATION

- D. Daily Construction Reports: Submitted Daily to architect, Owner, Owner's rep & Program / Construction Manager in a format as defined by Owner (including electronic formats such as Primavera Expedition).
- E. Material Location Reports: Submit as required by architect, Owner, Owner's rep & Program / Construction Manager.
- F. Field Condition Reports: Submitted to architect, Owner, Owner's rep & Program / Construction Manager in a format as defined by architect, Owner, Owner's rep & Program / Construction Manager (including electronic formats such as Primavera Expedition).
- G. Special Reports: Submitted per occurrence to Architect and Owner's Representative in a format as defined by architect, Owner, Owner's rep & Program / Construction Manager (including electronic formats such as Primavera Expedition).

1.3 QUALITY ASSURANCE

- 1. Photographer Qualifications: Digital photos of high quality taken by the General Contractor are acceptable.

1.4 COORDINATION

- A. Auxiliary Services: Cooperate with other trades, architect, Owner, Owner's rep & Program / Construction Manager, and provide auxiliary services requested, including access to Project site and use of temporary facilities including temporary lighting.

PART 2 - PRODUCTS

2.1 SUBMITTALS SCHEDULE

- A. Preparation: Submit a schedule of submittals, arranged in chronological order by dates required by construction schedule. Include time required for review, resubmittal, ordering, manufacturing, fabrication, and delivery when establishing dates.
 - 1. Coordinate Submittals Schedule with list of subcontracts, the Schedule of Values, and Contractor's Construction Schedule.
 - 2. Initial Submittal: Submit concurrently with preliminary network diagram. Include submittals required during the first 60 days of construction. List those required to maintain orderly progress of the Work and those required early because of long lead-time for manufacture or fabrication.
 - a. Show submittals on the Preliminary Construction Schedule.

CONSTRUCTION PROGRESS DOCUMENTATION

- b. Submittals must be logged and maintained in a format as defined by architect, Owner, Owner's rep & Program / Construction Manager, (including electronic formats such as Primavera Expedition).

2.2 CONTRACTOR'S CONSTRUCTION SCHEDULE, GENERAL

1. Phasing: Arrange list of activities on schedule by phase.
2. Work under More Than One Contract: Include a separate activity for each contract.
3. Work by Durham Public Schools: Include a separate activity for each portion of the Work performed by Durham Public Schools.
4. Products Ordered in Advance: Include a separate activity for each product. Include delivery date. Delivery dates indicated stipulate the earliest possible delivery date.
5. Durham Public Schools -Furnished Products: Include a separate activity for each product. Include delivery date. Delivery dates indicated stipulate the earliest possible delivery date.
6. Work Restrictions: Show the effect of the following items on the schedule:
 - a. Coordination with existing construction.
 - b. Limitations of continued occupancies.
 - c. Uninterruptible services.
 - d. Partial occupancy before Substantial Completion. (Show staff occupying the building to set up classes & stocking at least 30 days prior to the contract substantial completion date).
 - e. Use of premises restrictions.
 - f. Provisions for future construction.
 - g. Seasonal variations.
 - h. Environmental control.
7. Work Stages: Indicate important stages of construction for each major portion of the Work, including, but not limited to, the following:
 - a. Subcontract awards.
 - b. Submittals.
 - c. Purchases.
 - d. Mockups.
 - e. Fabrication.
 - f. Sample testing.
 - g. Deliveries.
 - h. Installation.
 - i. Tests and inspections.
 - j. Adjusting.
 - k. Curing.
 - l. Startup and placement into final use and operation.
8. Area Separations: Identify each major area of construction for each major portion of the Work. Indicate where each construction activity within a major area must be sequenced or integrated with other construction activities to provide for the following:

CONSTRUCTION PROGRESS DOCUMENTATION

- a. Structural completion.
 - b. Permanent space enclosure.
 - c. Completion of mechanical installation.
 - d. Completion of electrical installation.
 - e. Substantial Completion.
9. Responsibilities: Identify each activity according to the responsibility for that activity. Responsibilities categorization of activities shall include
- a. Durham Public Schools
 - b. Architect
 - c. City or County Agency having jurisdiction
 - d. General Contractor
 - e. Mechanical Contractor
 - f. Plumbing Contractor
 - g. HVAC Contractor
 - h. Electrical Contractor
 - i. Technology Contractor
 - j. Others having prime contracts

The purpose of this responsibility is to sort the schedule by entities having prime agreements with Durham Public Schools, Architect, agencies having jurisdiction. Establish secondary responsibilities in a separate activity definition for the purposes of sorting by subcontractors for the contractor's convenience.

2.3 REPORTS

- A. Daily Construction Reports: Prepare a daily construction report recording the following information concerning events at Project site:
1. List of subcontractors at Project site.
 2. List of separate contractors at Project site.
 3. Approximate count of personnel at Project site.
 4. High and low temperatures and general weather conditions.
 5. Accidents.
 6. Meetings and significant decisions.
 7. Unusual events (refer to special reports).
 8. Stoppages, delays, shortages, and losses.
 9. Meter readings and similar recordings.
 10. Emergency procedures.
 11. Orders and requests of authorities having jurisdiction.
 12. Change Orders received and implemented.
 13. Construction Change Directives received.
 14. Services connected and disconnected.
 15. Equipment or system tests and startups.

CONSTRUCTION PROGRESS DOCUMENTATION

16. Partial Completions and occupancies.
17. Substantial Completions authorized.

- B. Material Location Reports: At intervals as required by the architect, Owner, Owner's rep & Program / Construction Manager, prepare a comprehensive list of materials delivered to and stored at Project site. List shall be cumulative, showing materials previously reported plus items recently delivered. Include with list a statement of progress on and delivery dates for materials or items of equipment fabricated or stored away from Project site.
- C. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare a detailed report. Submit with a request for information on Primavera Expedition. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.

2.4 SPECIAL REPORTS

- A. General: Submit special reports directly to architect, Owner, Owner's rep & Program / Construction Manager, within one day of an occurrence. Distribute copies of report to parties affected by the occurrence by way of Primavera Expedition.
- B. Reporting Unusual Events: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, and response by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise architect, Owner, Owner's rep & Program / Construction Manager, in advance when these events are known or predictable.

END OF SECTION 01 32 00

CONSTRUCTION SCHEDULES & REPORTS

1.01 GENERAL REQUIREMENTS

- A. The work under this contract shall be planned, scheduled, executed, and reported using the Critical Path Method (hereinafter referred to as: CPM), pursuant to the provisions of the General Conditions. Any deviation between this scheduling specification and the General Conditions shall be governed by the more stringent spec at the full discretion of the Engineer, Owner, Owner's rep & Program / Construction Manager.
- B. The primary objectives of the project scheduling program are to insure the adequate planning, scheduling and execution of the construction activities so they may be prosecuted in an orderly and expeditious manner, within the Contract Time and the milestones stipulated by the Contract, to provide optimum coordination between contractors, to establish the basis for measuring and monitoring individual contractor progress and overall project progress, to detect problems for the purpose of taking corrective action to maintain the scheduled program and to provide a mechanism or tool for determining and monitoring such corrective actions.
- C. Any schedule templates prepared for this project by the owner are made available by the Owner solely as an aid to the Contractor. Any construction plan depicted in the schedule template may not optimize, and it is not intended to optimize, the Bidder's costs or resources. It is intended that these schedules will reflect the milestones and completion dates established by the Owner. However, the services provided by the Engineer, Owner, Owner's rep & Program / Construction Manager, the existence of schedules, networks, or any other charts or services prepared or performed by the Engineer, Owner, Owner's rep & Program / Construction Manager shall in no way relieve the Contractor and/or Project Expediter of the responsibility of complying with all of the requirements of the Contract Documents, including but not limited to the responsibility of completing the Work within the Contract Time and the responsibility of planning, scheduling and coordinating the work. The Contractor is required to comply with all control procedures specified herein and with any reasonable changes that may be necessary, in the opinion of the Engineer, Owner, Owner's rep & Program / Construction Manager, or that are provided to the contractor regarding key dates, during the contract duration.
- D. Any and all milestone or specific Dates listed in these specifications, or elsewhere in the Contract Documents, represent only the major items of construction/erection work or interface dates. The milestone completion dates indicated are considered essential to the satisfactory performance of this Contract and to the coordination of all work on the project.

The milestone dates listed are not intended to be a complete listing of all work under this Contract or of all interfaces with other project contractors.

The milestone dates listed represent the latest allowable completion dates. Earlier completion dates may be established by the Project Expediter as agreed by the Contractor(s), Engineer, Owner, Owner's rep & / or Program / Construction Manager.
- E. If the Contractor should desire or intend to complete the work earlier than any required Milestone or Completion date, the Engineer, Owner, Owner's rep & Program /

CONSTRUCTION SCHEDULES & REPORTS

Construction Manager shall not be liable to the Contractor for any costs or other damages should the contractor be unable to complete the Work before such Milestone or Completion date. The duties, obligations, and warranties of the Owner to the Contractor shall be consistent with and applicable only to the completion of the Work on the Milestone and completion dates required in the Owner-Contractor Agreement, unless the Owner and Contractor otherwise agree in writing.

F. THE GENERAL CONSTRUCTION CONTRACTOR IS THE PROJECT EXPEDITER / COORDINATOR AND HAS THE DUTY OF SCHEDULE PREPARATION, COORDINATION, UPDATING & REPORTING.

1.02 PRE-BID

A. The Owner reserves the right to the following prior to the receipt of bids:

1. Engineer, Owner, Owner's rep & Program / Construction Manager or a third-party scheduling consultant may prepare a Preliminary Provisional Network, which displays a construction plan to complete the Project in compliance with Specific Dates listed in the Bid Documents.
 - a. The Engineer, Owner, Owner's rep & Program / Construction Manager make no warranty or representation either express or implied, as to the reasonableness of or feasibility of the fact that this Preliminary Provisional Network may be a complete listing of all of the Work activities required by this Contract.
 - b. Each Bidder is under the obligation of reviewing and analyzing the Preliminary Provisional Network and determining its feasibility and reasonableness with regard to the activities required by the Contract Documents, the duration of such activities and the sequence of work required in order to complete the work within the contract time.
2. At the sole discretion of the Owner the Engineer, Owner, Owner's rep & Program / Construction Manager may conduct a Pre-Bid Conference to familiarize bidders with the Project and the Preliminary Provisional Network, if supplied.

1.03 POST AWARD ACTIVITIES

A. The Contractor shall perform the following after receipt of the Notice to Proceed.:

Immediately following the receipt of Notice to Proceed, the General Contractor shall commence the preparation of the Detailed Construction Schedule. In this respect and prior to the next meeting with the Engineer, Owner, Owner's rep & Program / Construction Manager, the Contractor shall assemble, with the assistance of his Subcontractors and Suppliers, information regarding the project that includes but is not limited to:

1. A Detailed Construction Schedule that represents the Contractor's best judgment in how he shall prosecute and complete the work in compliance with the Contract Milestone Dates and any Specific Dates stipulated in the General Conditions or other contract documents.

CONSTRUCTION SCHEDULES & REPORTS

2. The identity and duration of all activities to be included in this construction plan shall meet the following criteria:
 - (A) Activity descriptions shall be clear and concise. The beginning and end of each activity shall be readily verifiable.
 - (B) Responsibility for each activity shall be identified with a single performing organization. (i.e., Primes, suppliers, vendors, and all sub-contractor)
 - (C) The cost component for each activity shall be provided, if requested by the Owner. The sum of the activity cost components shall equal the contract price.
 - (D) An activity must be no more than 14 calendar days in duration unless approved in advance by the Engineer, Owner, Owner's rep & Program / Construction Manager.
 - (E) Include relevant predecessors and successors for each activity as well as the type of relationships between, and any lag time required. All activities except the first activity (i.e., NTP) and last activity (i.e., Final Completion) shall have both predecessors and successors.
 - (F) Listing of Project submittals, approvals, and material/equipment site deliveries dates.
 3. The identity of planned and reasonably anticipated inclement weather as identified in Article 4.3.7.2 of the General Conditions.
 4. The identity of long lead items and delivery dates of all major pieces of equipment or materials.
 5. The schedule must be resource loaded and identify the contractor performing the work and the number of workers needed to perform each activity.
- B. The General Contractor shall, within **fourteen (14) calendar days** following Notice to Proceed, submit to the Engineer, Owner, Owner's rep & Program / Construction Manager, **a Computerized Construction Schedule** in precedence format that is acceptable to the owner.
- . The Detailed Construction Schedule shall show:
- a. The order and interdependencies of the contractor's activities and the major points of interface or interrelation with the activities of others, including Specific Dates for completion.
 - b. Conformance with and identification of the specified mandatory milestone dates specified in the Contract Documents.
 - c. The description and quantity of work by activity.

CONSTRUCTION SCHEDULES & REPORTS

- d. The time required for engineering, preparation and approval of shop drawings, manufacturing, and delivery of Contractor-furnished permanent plant materials.
 - e. The time required for procurement, delivery, and erection of the Contractor's permanent plant materials.
 - f. Delivery of Owner-furnished material and equipment.
 - g. Shop fabrication and delivery.
 - h. Critical Path (or Paths).
 - i. Erection and installation.
 - j. Testing of equipment and materials.
 - k. Activity calendars, incorporating potential weather delays, or multi- work periods.
- C. The Detailed Construction Schedule shall indicate an early completion date for the project that is no later than the project's required completion date. All activity durations shall be given in workdays. The Schedule shall also indicate each of the following:
- 1. Interfaces with the work of outside contractors, e.g., utilities, power, and with any separate contractor.
 - 2. Estimated duration time for each activity.
 - 3. Early start date for each activity.
 - 4. Late start date for each activity.
 - 5. Early finish date for each activity.
 - 6. Late finish date for each activity.
 - 7. Float available for each path of activities containing float.
 - 8. Actual start date for each activity begun.
 - 9. Actual finish date for each activity completed.
 - 10. Identification of all critical path activities in the schedule analysis.
 - 11. The critical path for the project, with said path of activities being clearly and easily recognizable on the time-scaled network diagram. The relationship between all non-critical activities and activities on the critical path shall be clearly shown on the network diagram.
 - 12. The dollar value of each activity in relation to the schedule of values, if required by the Owner.

CONSTRUCTION SCHEDULES & REPORTS

13. The responsibility code for the Contractor or Subcontractor performing each activity or portion thereof.
- D. The Engineer, Owner, Owner's rep & Program / Construction Manager will review the Contractor's Detailed Construction Schedule, for compatibility with the Project Milestones, Completion Schedule, and Project Expeditors' Schedule. If requested, a meeting will be held between the Engineer, Owner, Owner's rep & Program / Construction Manager and Contractor to resolve any conflicts in the Contractor's schedule. The Contractor shall revise his schedule as required by the Engineer, Owner, Owner's rep & Program / Construction Manager to ensure completion of the Project in accordance with the Project's Milestone and Completion Dates and shall submit his revised schedule to the Engineer, Owner, Owner's rep & Program / Construction Manager within five (5) calendar days.
- E. Within **fourteen (14) calendar days** following Notice to Proceed, the Contractor shall submit a Schedule of Values for review by the Engineer, Owner, Owner's rep & Program / Construction Manager. The Schedule of Values will allocate a dollar value (cost) for each activity. Each activity cost allocation shall include a labor, equipment and material cost and a pro rata contribution to overhead and profit. The sum of all activity costs shall be equal to the total Contract Sum. Each activity cost shall be coded with a cost code corresponding to the subcontractor responsible for performing the Work so that subtotals for each division of the Work can be prepared.
- F. Approval by the Engineer, Owner, Owner's rep & Program / Construction Manager of the Project Expediter's Project Construction Schedule is advisory only and shall not relieve the Contractors of the responsibility for accomplishing the Work within each and every Contract-required Milestone and Completion date. Omissions and errors in the approved Project Construction Schedule shall not excuse performance which is not in compliance with the contract. Acceptance by the Engineer, Owner, Owner's rep & Program / Construction Manager in no way makes the Engineer, Owner, Owner's rep & Program / Construction Manager an insurer of the Project Construction Schedule's success or liable for time or cost overruns flowing from its shortcomings. The Owner hereby disclaims any obligation or liability by reason of Engineer, Owner, Owner's rep & Program / Construction Manager acceptance of or acquiescence to the Project Construction Schedule.
- G. The **Project Expediter / General Contractor** shall compile, organize, and present a fully integrated Computerized Project Construction Schedule to the Engineer, Owner, Owner's rep & Program / Construction Manager within **fourteen (14) calendar days** of Notice to Proceed. The Project Expediter shall provide five (5) hard copies of the Detailed Construction Schedule, and one electronic Primavera P6 compatible file copy, the Schedule of Values and Computer Reports to the Engineer, Owner, Owner's rep & Program / Construction Manager and Prime Contractors for final review and acceptance. The Project Expediter shall use the approved Project Construction Schedule in planning, organizing, directing, coordinating, performing and executing the work (including all activities of Subcontractors, equipment deliveries, vendors, and suppliers) and shall be the basis for evaluating the progress of the Work, subject to such revisions made in such schedule as provided for herein or in the Contract Documents.
- H. The **Project Expediter** will develop and maintain the overall Project Construction Schedule, of which the Contractor's Detailed Construction Schedule will be a part. This

CONSTRUCTION SCHEDULES & REPORTS

schedule will be in precedence format and will be computer generated and updated and with the inclusion of the approved prime contractor schedules will be the controlling schedule document utilized for managing overall project construction.

1.04 COMPUTER COST AND SCHEDULE REPORTS

- A. Every month the Project Expediter will generate all monthly Prime contractors' progress documents (i.e., monthly Turn-a-round Documents and the progress payment application Cost/Schedule Reports) from the Detailed Construction Schedule, based on the Progress Reports received from the Contractors. These Reports will reflect the progress of the project in respect to both cost and time.
- B. Report Content:
1. The initial and subsequent Schedule Reports shall include the following minimum information for each activity: activity number, by total float (from the least to the most), and late start date, in chronological order:
 - a. activity number
 - b. activity description
 - c. estimated duration in days
 - d. early and late start dates
 - e. early and late finish dates
 - f. percentage of activity completed as of each report
 - g. total float-positive/days behind schedule-negative
 - h. responsibility for activity.

The Project Expediter will produce monthly (4) four schedule reports. The reports are:

1. All activities on the Project Construction Schedule sorted by activity number.
 2. Activity by Prime Contractor sorted. Further sorted by activity number.
 3. All activities for prime contractors sorted by total float.
 4. All activities by late start in chronological order.
2. The initial and subsequent Cost Reports shall include the following activity information sorted by trade:
- a. activity number
 - b. activity description

CONSTRUCTION SCHEDULES & REPORTS

- c. current month percentage of value of work in place against TotalValue
- d. previous month percentage of value of work in place against TotalValue
- e. total cost of each activity

1.05 UPDATES

- A. An updated project schedule shall be provided at each construction progress meeting.
- B. Each updated schedule must include the original base line schedule that was accepted by the Engineer, Owner, Owner's rep & Program / Construction Manager, and signed by each Prime Contractor. It also needs to reflect actual progress and anticipated completion durations.

1.06 PROGRESS PAYMENTS

- A. Five (5) calendar days prior to the date of application for Progress Payment, **each Prime Contractor's Project Manager and Superintendent**, the Engineer, Owner, Owner's rep & Program / Construction Manager shall meet at the job site for the purpose of reviewing the Contractor's report of actual progress, and obtaining from the Contractor (following his meeting with all concerned Subcontractors and suppliers) up-to-date and accurate progress data.
- B. Before the date of Application for Progress Payment, the Project Expediter shall produce copies of all reports referred to in the contract documents.
- C. The submission and approval of progress updates and the reports calculating the value of work done for any given pay period for each activity based on the percentage complete for that activity less the amount previously paid for past percentages complete and percent of retainage shall be an integral part and basic element of the application upon which Progress Payments shall be made pursuant to the provisions of the General Conditions. The Contractor shall be entitled to progress payments only as determined from the current updated and approved Project Cost Report. Each month the updated and approved Project Cost Report shall be attached to AIA form G702 in submitting payment applications.
- D. Due to the fact that the Schedules and Reports System may not be fully operational before thirty (30) days after the Notice to Proceed, the Contractor may be due one Provisional Progress Payment for mobilization, overhead, procurement of bonds and insurance, and general conditions. However, no payment for work will be approved until the Contractor has complied with the provisions of this Section.
- E. The following outlines the Contractor's pay cycle process Payment cycle (Payment check issued on approximately the 15th on the following month):
 - 1. Current month construction progress status approved by Design Consultant by 20th of the month.

CONSTRUCTION SCHEDULES & REPORTS

2. Current month Payment Application approved by Design Consultant, and Owner by 25th of the month.

2.00 CONTRACTOR'S ORGANIZATION

The Contractor shall maintain, as part of its organization, a staff/or consultant of sufficient knowledge in the use and application of CPM in a Primavera P6 compatible format and whose responsibility will be to prepare input information for the Detailed Construction Schedule, monitor progress, provide input for updating and revise logic diagrams when necessary.

2.01 SPECIFIC DATES

The Contractor is required to adhere to the Specific Dates as set forth in the Contract Documents.

2.02 RECOVERY SCHEDULE

Pursuant to the General Conditions, should the Project Coordinator / Expediter's approved Project Construction Schedule fall behind schedule to the extent that any of the critical activities, or specific milestone dates or completion dates fall behind by 14 days or more, or in the opinion of the Engineer, Owner, Owner's rep & Program / Construction Manager are in jeopardy, the Contractor shall be required to, at no extra cost to the Owner, prepare and submit to the Owner, Design Consultant and Project Expediter a supplementary Recovery Schedule, in a form and detail appropriate to the need, to explain and display how they intend to reschedule those activities to regain compliance with the Project Construction Schedule during the immediate subsequent pay period. This recovery schedule must indicate how the contractor / contractors intend to make up the delay in the project, either by additional shifts, additional workdays (weekends & holidays), or by additional crews or crew sizes.

2.03 NETWORK REVISIONS

- A. Should the Contractor, after approval of the initial Project Construction Schedule, desire to change his plan of construction, he shall submit his requested revisions to the Engineer, Owner, Owner's rep & Program / Construction Manager along with a written statement of the revisions including a description of the logic for rescheduling the work, methods of maintaining adherence to intermediate milestones and Specific Dates and the reasons for the revisions. The Contractor shall revise his schedule to include the effect of Changes, acts of God or other conditions or events which have affected the network. If the requested changes are acceptable to the other Prime Contractors, the Engineer, Owner, Owner's rep & Program / Construction Manager, and they do not adversely impact any Milestone or Completion Dates, they will be incorporated into a revised Approved Project Construction Schedule, to be compiled and produced by the Project Expediter in the next reporting period. All costs associated with such revision shall be at the sole expense of the contractor.
- B. When the Owner orders changes by Change Order which have the potential to impact the Contract milestones or Specific Dates stipulated in the Contract Documents, a Revised Network will be prepared by the Contractor and provided to the Engineer, Owner, Owner's rep & Program / Construction Manager for concurrence or revision as he deems necessary.

CONSTRUCTION SCHEDULES & REPORTS

After the revised network has been mutually agreed upon, it will be incorporated into a revised Project Construction Schedule, to be compiled and produced by the Project Expediter. Change Order logic will affect only those activities and performance dates directly concerned. Adjustments in Scheduled intermediate Completion Dates or for the Contract as a whole will be considered only to the extent that there is insufficient remaining float to absorb these changes.

- C. Any change to the approved Project Construction Schedule must be approved in writing by the Engineer, Owner, Owner's rep & Program / Construction Manager.
- D. Neither the updating or revision of approved Project Construction Schedule nor the submission, updating, change or revision of any report or schedule submitted to Engineer, Owner, Owner's rep & Program / Construction Manager by Contractor under this Section nor Owner's review or non-objection of any such report or schedule shall have the effect of amending or modifying, in any way, the Contract Time, any Contract Completion Date, or Contract Milestone Dates or of modifying or limiting in any way Contractor's obligations under this Contract.

2.04 FLOAT TIME

- A. Float or slack time is defined as the amount of time between the earliest start date and the latest start date or between the earliest finish date and the latest finish date of a chain of activities on the Detailed Construction Network. Contractor's work shall proceed according to early start dates, and the Engineer, Owner, Owner's rep & Program / Construction Manager shall have the right to reserve and apportion float time according to the needs of the project. The Contractor acknowledges and agrees that actual delays, affecting paths of activities containing float time, will not have any effect upon contract completion times, providing that the actual delay does not exceed the float time associated with those activities.
- B. Extensions of time for performance as described in the Contract Documents will be granted only to the extent that time adjustment for the activity or activities affected by any condition or event which entitles the Contractor to a time extension exceed the total float or slack along the path of activities affected at the time of Notice to Proceed of a Change Order or the commencement of any delay or condition for which an adjustment is warranted under the Contract Documents.

2.05 REQUESTED TIME ADJUSTMENT SCHEDULE:

- A. The updated approved Project Construction Schedule submitted by Project Expediter shall not show a completion date later than the Contract Time, subject to any time extensions approved by Owner. If Contractor believes he is entitled to an extension of the Contract Time under the Contract Documents, Contractor shall submit to Owner and Design Consultant, a separate schedule analysis (entitled "Requested Time Adjustment Schedule") indicating suggested adjustments in the Contract Time which should, in the opinion of Contractor, be made in accordance with the contract Documents by time extension, due to changes, delays or conditions occurring during the past month or previously, or which are expected or contemplated by Contractor (whether such conditions are excusable under the Contract or are alleged to be due to Contractor or Owner fault); this separate schedule, if submitted, shall be time-scaled utilizing a computer generated and computer-drawn network analysis schedule, unless otherwise approved by the Engineer, Owner, Owner's rep &

CONSTRUCTION SCHEDULES & REPORTS

Program / Construction Manager and shall be accompanied or preceded by a formal time extension request as required by the Contract and a detailed narrative justifying the time extension requested.

- B. Neither the Engineer, Owner, Owner's rep & Program / Construction Manager shall have any obligation to consider any time extension request unless the requirements of all of the Contract Documents, are complied with the Owner shall not be responsible or liable to Contractor for any constructive acceleration due to failure of Owner to grant time extensions under the Contract Documents should Contractor fail to substantially comply with the submission requirements and the justification requirements of this Contract for time extension requests. Contractor's failure to perform in accordance with the approved Project Construction Schedule shall not be excused, nor be chargeable to Owner, because Contractor has submitted time extension requests or a "Requested Time Adjustment Schedule."

2.06 COORDINATION

- A. The Contractor shall coordinate his work with that of other contractors and shall cooperate fully with the Engineer, Owner, Owner's rep & Program / Construction Manager in maintaining orderly progress toward completion of the work as scheduled. The Engineer, Owner, Owner's rep & Program / Construction Manager decisions regarding priority between the Contractor's work and the work of other contractors at the site shall be final. If the Contractor's critical path work is delayed by the Engineer, Owner, Owner's rep & Program / Construction Manager decision, the Contractor shall submit any required time extension requests to the Owner in accordance with the Contract Documents.
- B. The milestone dates referred to in the Contract Documents for delivery of Owner-furnished equipment and materials and interface activities of other contractors on the site are based on dates set forth in separate contracts with the Owner.
- C. Failure of Owner-furnished equipment and materials to arrive as scheduled, or failure of other construction contractors to meet their schedule, shall not be justification for an extension of time, except where such failure causes, in the opinion of the Engineer, Owner, Owner's rep & Program / Construction Manager a delay in the Contractor's critical path work, in which case the provisions of the General Conditions regarding extensions of time and extra work shall apply.
- D. The Contractor shall keep himself, and his subcontractors, advised at all times during the course of the Work regarding delivery status of Owner-furnished equipment and materials and of the progress of construction work being performed under separate contracts.
- E. The Engineer, Owner, Owner's rep & Program / Construction Manager will, upon written request by the Contractor, furnish delivery information which may be available to the Engineer, Owner, Owner's rep & Program / Construction Manager.

2.07 SCHEDULE OF OFF-SITE ACTIVITIES

- A. The Contractor shall include in his Detailed Construction Network all procurement related activities which lead to the delivery of materials to the site in a timely manner. Upon written approval by the Engineer, Owner, Owner's rep & Program / Construction Manager, these

CONSTRUCTION SCHEDULES & REPORTS

activities may be submitted as a separate Off-Site Activities Schedule, properly correlated to the Detailed Construction Schedule. The schedule of off-site activities shall include, but is not limited to, the following:

1. Dates for submittals, ordering, manufacturing, or fabricating, and delivery of equipment and materials. Long lead items requiring more than one month between ordering and delivery to site shall be clearly noted.
 2. All significant activities to be performed by the Contractor during the fabrication and erection/installation in a Contractor's plant or on a job site, including materials/equipment purchasing, delivery; and
 3. Contractor's drawings and submittals to be prepared and submitted to the Design Consultant.
- B. The Contractor shall be solely responsible for expediting the delivery of all material to be furnished by him so that the construction progress shall be maintained according to the approved Project Construction Schedule for the Work as approved by the Engineer, Owner, Owner's rep & Program / Construction Manager.
- C. The Engineer, Owner, Owner's rep & Program / Construction Manager shall be advised in writing by the Contractor whenever it is anticipated by the Contractor that the delivery date of any material and/or equipment furnished by the Contractor for installation will be later than the delivery date shown on the schedule, subject to schedule updates.
- D. Submittals, equipment orders and related items are to be treated as schedule activities and shall be given appropriate activity numbers.
- E. The Contractor, in developing his off-site and procurement schedules, will ensure that off-site activities do not control the critical path of on-site activities.

2.08 CONTRACTOR COVENANTS AND GUARANTEES

- A. Contractor covenants and guarantees that Contractor will not:
1. Misrepresent to Engineer, Owner, Owner's rep & Program / Construction Manager its planning scheduling or execution of the Work.
 2. Utilize schedules materially different from those made available by Contractor to the Engineer, Owner, Owner's rep & Program / Construction Manager or any Subcontractor or separate Contractors for the direction, execution, and coordination of the Work, or which are not feasible or realistic.
 3. Prepare schedules, updates, revisions, or reports for the work which do not accurately reflect the actual intent or reasonable and actual expectations of Contractor and its Subcontractor as to:
 - (a) The sequences of activities,
 - (b) The duration of activities,

CONSTRUCTION SCHEDULES & REPORTS

- (c) The responsibility of activities,
 - (d) Resources availability,
 - (e) Labor availability or efficiency,
 - (f) Foreseeable weather conditions,
 - (g) The value associated with the activity,
 - (h) The percentage complete of any activity,
 - (i) Completion of any item of work or activity,
 - (j) Project milestone completion,
 - (k) Delays, slippages, or problems encountered or expected,
 - (l) Subcontractor requests for time extensions or delay claims of subcontractors, and
 - (m) Float time
- B. Contractor's failure to substantially comply with the foregoing covenant and guarantee shall be a substantial and material breach of contract which will permit Owner to terminate Contract for default, or withhold payments under the Contract Documents, and shall entitle Owner to the damages afforded for misrepresentation or fraud by these Contract documents or applicable law.
- C. Should Contractor fail to substantially comply with the provisions of the Contract documents relating to planning, scheduling and execution of the Work by the overall project schedule, Owner and the Design Consultant shall have the right, at their option, after five (5) days' notice, to retain the services of scheduling consultants or experts (including attorneys if necessary in their opinion) to prepare a schedule in accordance with the Contract Documents and to review and analyze same, in order to allow Engineer, Owner, Owner's rep & Program / Construction Manager to evaluate the program of the Work by Contractor, to determine whether Contractor is substantially complying with the Contract Documents, and to direct such action on the part of the contractor to ensure that Contractor will meet the Project's Construction Schedule and all Milestone and Completion Dates. All costs incurred by Owner in preparing the schedule hereunder shall be charged to the responsible Contractor(s). If Contractor fails to substantially comply with the scheduling and execution of the work requirements of the Contract Documents, Contractor hereby agrees to pay all costs for a 3rd party scheduling consultant (selected by the Owner) for the development and twice monthly updating of the construction schedule.

2.09 DEFAULT

Failure of the Contractor to substantially comply with the requirements of this Section shall constitute reason that the Contractor is failing to prosecute the Work with such diligence as

CONSTRUCTION SCHEDULES & REPORTS

will ensure its completion within the Contract times and shall be considered grounds for termination by the Owner, pursuant to the General Conditions.

END OF SECTION 01 32 16

SUBMITTALS

PART 1 - GENERAL

.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

.2 SUMMARY

- A. This Section includes administrative and procedural requirements for submittals required for performance of the Work, including the following:
 - 1. Contractor's construction schedule.
 - 2. Submittal schedule.
 - 3. Quality assurance submittals.
 - 4. Abestos Manifests
- B. Administrative Submittals: Refer to other Division 1 Sections and other Contract Documents for requirements for administrative submittals. Such submittals include, but are not limited to, the following:
 - 1. Permits.
 - 2. Applications for Payment.
 - 3. Performance and payment bonds.
 - 4. Insurance certificates.
 - 5. List of subcontractors.
- C. Related Sections: The following Sections contain requirements that relate to this Section:
 - 1. Division 1 Section "Applications for Payment" specifies requirements for submittal of the Schedule of Values.
 - 2. Division 1 Section "Quality Control" specifies requirements for submittal of inspection and test reports.
 - 3. Division 1 Section "Contract Closeout" specifies requirements for submittal of Project Record Documents and warranties at project closeout.

.3 DEFINITIONS

- A. Coordination Drawings show the relationship and integration of different construction elements that require careful coordination during fabrication or installation to fit in the space provided or to function as intended.
- B. Field samples are full-size physical examples erected on-site to illustrate finishes, coatings, or finish materials. Field samples are used to establish the standard by which the Work will be judged.

SUBMITTALS

4 SUBMITTAL PROCEDURES

- A. Coordination: Coordinate preparation and processing of submittals with performance of construction activities. Transmit each submittal sufficiently in advance of performance of related construction activities to avoid delay.
1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
 2. Coordinate transmittal of different types of submittals for related elements of the Work so processing will not be delayed by the need to review submittals concurrently for coordination.
 - a. The Designer/Program Manager reserves the right to withhold action on a submittal requiring coordination with other submittals until all related submittals are received.
 3. Processing: To avoid the need to delay installation as a result of the time required to process submittals, allow sufficient time for submittal review, including time for resubmittals.
 - a. Allow 2 weeks for initial review. Allow additional time if the Program Manager must delay processing to permit coordination with subsequent submittals.
 - b. If an intermediate submittal is necessary, process the same as the initial submittal.
 - c. Allow 2 weeks for reprocessing each submittal.
 - d. No extension of Contract Time will be authorized because of failure to transmit submittals to the Program Manager sufficiently in advance of the Work to permit processing.
- B. Submittal Preparation: Place a permanent label or title block on each submittal for identification. Indicate the name of the entity that prepared each submittal on the label or title block.
1. Provide a space approximately 4 by 5 inches (100 by 125 mm) on the label or beside the title block on Shop Drawings to record the Contractor's review and approval markings and the action taken.
 2. Include the following information on the label for processing and recording action taken.
 - a. Project name.
 - b. Date.
 - c. Name and address of the Designer/Program Manager.
 - d. Name and address of the Contractor.
 - e. Name and address of the subcontractor.
 - f. Name and address of the supplier.
 - g. Name of the manufacturer.
 - h. Spec section number & name
- C. Submittal Transmittal: Package each submittal appropriately for transmittal and handling. Transmit each submittal from the Contractor to the Program Manager using a transmittal form. The Program Manager will not accept submittals received from sources other than the Contractor.

SUBMITTALS

1. On the transmittal, record relevant information and requests for data. On the form, or separate sheet, record deviations from Contract Document requirements, including variations and limitations. Include Contractor's certification that information complies with Contract Document requirements.

.5 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Bar-Chart Schedule: Prepare a fully developed, horizontal bar-chart-type, contractor's construction schedule. Submit within 15 days after the date established for "Commencement of the Work."
 1. Provide a separate time bar for each significant construction activity. Provide a continuous vertical line to identify the first working day of each week. Use the same breakdown of units of the Work as indicated in the "Schedule of Values."
 2. Within each time bar, indicate estimated completion percentage in 10 percent increments. As Work progresses, place a contrasting mark in each bar to indicate Actual Completion.
 3. Prepare the schedule on a sheet, or series of sheets, of stable transparency, or other reproducible media, of sufficient width to show data for the entire construction period.
 4. Secure time commitments for performing critical elements of the Work from parties involved. Coordinate each element on the schedule with other construction activities; include minor elements involved in the sequence of the Work. Show each activity in proper sequence. Indicate graphically the sequences necessary for completion of related portions of the Work.
 5. Coordinate the Contractor's Construction Schedule with the Schedule of Values, list of subcontracts, Submittal Schedule, progress reports, payment requests, and other schedules.
 6. Indicate completion in advance of the date established for Substantial Completion. Indicate Substantial Completion on the schedule to allow time for the Program Manager's procedures necessary for certification of Substantial Completion.
- B. Distribution: Following response to the initial submittal, print and distribute copies to the Program Manager, Owner, subcontractors, and other parties required to comply with scheduled dates. Post copies in the Project meeting room and temporary field office.
 1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.
- C. Schedule Updating: Revise the schedule after each meeting, event, or activity where revisions have been recognized or made. Issue the updated schedule concurrently with the report of each meeting.

.6 SUBMITTAL SCHEDULE

- A. A submittal schedule is required for this project. The schedule shall be organized based upon the technical specification index for divisions 2-49 of this project.

.7 DAILY CONSTRUCTION REPORTS

SUBMITTALS

- A. Prepare a weekly construction report recording the following information concerning events at the site:
 - 1. List of subcontractors at the site.
 - 2. Approximate count of personnel at the site.
 - 3. High and low temperatures, general weather conditions.
 - 4. Accidents and unusual events.
 - 5. Meetings and significant decisions.
 - 6. Stoppages, delays, shortages, and losses.
 - 7. Meter readings and similar recordings.
 - 8. Emergency procedures.
 - 9. Orders and requests of governing authorities.
 - 10. Change Orders received, implemented.
 - 11. Services connected, disconnected.
 - 12. Equipment or system tests and startups.
 - 13. Partial Completions, occupancies.
 - 14. Substantial Completions authorized.

.8 SHOP DRAWINGS

- A. Submit newly prepared information drawn accurately to scale. Highlight, encircle, or otherwise indicate deviations from the Contract Documents. Do not reproduce Contract Documents or copy standard information as the basis of Shop Drawings. Standard information prepared without specific reference to the Project is not a Shop Drawing.
- B. Shop Drawings include fabrication and installation Drawings, setting diagrams, schedules, patterns, templates and similar Drawings. Include the following information:
 - 1. Dimensions.
 - 2. Identification of products and materials included by sheet and detail number.
 - 3. Compliance with specified standards.
 - 4. Notation of coordination requirements.
 - 5. Notation of dimensions established by field measurement.
 - 6. Sheet Size: Except for templates, patterns and similar full-size Drawings, submit Shop Drawings on sheets at least 8-1/2 by 11 inches (215 by 280 mm) but no larger than 36 by 48 inches (890 by 1220 mm).
 - 7. Initial Submittal: Submit 2 blue- or black-line prints for review
 - 8. Final Submittal: Submit 3 blue- or black-line prints and 2 additional prints where required for maintenance manuals.
 - a. One of the prints returned shall be marked up and maintained as a "Record Document."
 - 9. Do not use Shop Drawings without an appropriate final stamp indicating action taken.

.9 PRODUCT DATA

SUBMITTALS

- A. Collect Product Data into a single submittal for each specification section or each element of construction or system. Partial submittals will NOT BE accepted. Product Data includes printed information, such as manufacturer's installation instructions, catalog cuts, standard color charts, roughing-in diagrams and templates, standard wiring diagrams, and performance curves.
 - 1. Mark each copy to show applicable choices and options. Where printed Product Data includes information on several products that are not required, mark copies to indicate the applicable information. Include the following information:
 - a. Manufacturer's printed recommendations.
 - b. Compliance with trade association standards.
 - c. Compliance with recognized testing agency standards.
 - d. Application of testing agency labels and seals.
 - e. Notation of dimensions verified by field measurement.
 - f. Notation of coordination requirements.
 - 2. Do not submit Product Data until compliance with requirements of the Contract Documents has been confirmed.
 - 3. Submittals: Submit 2 copies of each required submittal; submit 4 copies where required for maintenance manuals. The **Owner** will retain one and will return the other marked with action taken and corrections or modifications required.
 - a. Unless noncompliance with Contract Document provisions is observed, the submittal may serve as the final submittal.
 - 4. Distribution: Furnish copies of final submittal to installers, subcontractors, suppliers, manufacturers, fabricators, and others required for performance of construction activities. Show distribution on transmittal forms.
 - a. Do not proceed with installation until a copy of Product Data is in the Installer's possession.
 - b. Do not permit use of unmarked copies of Product Data in connection with construction.

.10SAMPLES

- A. Samples are required as indicated in technical specification divisions 2-49 for this project.

.11QUALITY ASSURANCE SUBMITTALS

- A. Submit quality-control submittals, including design data, certifications, manufacturer's instructions, manufacturer's field reports, and other quality-control submittals as required under other Sections of the Specifications.
- B. Certifications: Where other Sections of the Specifications require certification that a product, material, or installation complies with specified requirements, submit a notarized certification from the manufacturer certifying compliance with specified requirements.

SUBMITTALS

1. Signature: Certification shall be signed by an officer of the manufacturer or other individual authorized to sign documents on behalf of the company.
- C. Inspection and Test Reports: Requirements for submittal of inspection and test reports from independent testing agencies are specified in Division 1 Section "Quality Control."

.12 Program Manager's ACTION

- A. Except for submittals for the record or information, where action and return is required, the Owner will review each submittal, mark to indicate action taken, and return promptly.
 1. Compliance with specified characteristics is the Contractor's responsibility.
- B. Action Report: The Program Manager will attach to each submittal a uniform, action summary sheet. The Program Manager will mark the sheet appropriately to indicate the action taken
- C. Unsolicited Submittals: The Owner will return unsolicited submittals to the sender without action.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

END OF SECTION 01 33 00

SPECIAL PROJECT PROCEDURES

The “SPECIAL PROJECT PROCEDURES” has been developed as a working tool with the sole purpose of stimulating action by all parties. It is a single source of information specific to the **Insert Project Name here**. The issues discussed in the plan are applicable to all parties. It is a tool that will be modified as the scope of work changes and site-specific conditions change. The following items make up the SPECIAL PROJECT PROCEDURES:

1. **STUDENT SAFETY**

- ◆ Construction fencing will be utilized as indicated on the site plan to control the construction zone and generate a safe path of travel for students, staff, and the public.
- ◆ 10 mph speed limit for construction traffic will be enforced.
- ◆ Roadways being shared with school and construction traffic will be closely supervised.

2. **STUDENT SECURITY**

- ◆ No Construction personnel in school building during school hours without authorization from the principal or owner.

3. **PARKING**

- ◆ Contractor to prepare a Site Utilization Plan that shows parking, porta-john, lay-down, etc. for approval.
- ◆ Construction parking in designated contractor parking, staging, and overflow parking areas only.

4. **EMERGENCY ACCESS TO SITE**

- ◆ Fire extinguishers will be placed throughout the site with the fire marshal’s input.

5. **VEHICULAR TRAFFIC ISSUES**

- ◆ During summer school days, deliveries will be limited to **after drop-off and before pick-up** in an effort to not add to the existing traffic.
- ◆ Buses / students arrive in the morning ends at **Insert Times Here**.
- ◆ Buses / students depart in the afternoon begins at **Insert Times Here**.

6. **WORKERS CODE OF CONDUCT**

- ◆ Zero tolerance policy for cursing, cat calling, or unauthorized inter-action with students, staff, or parents.
- ◆ Swift prosecution of illegal drug, alcohol, tobacco, or firearm violations.
- ◆ Security background checks are required for every worker on site.

SPECIAL PROJECT PROCEDURES

7. **CONSTRUCTION SCHEDULE & SEQUENCE**

- Construction locations and sequencing will be coordinated with the school principal and school construction and capital planning so as to not interfere with normal school operations.

8. **CONSTRUCTION WORK HOURS**

- ◆ Work hours will be from **Insert Hours Here** generally.
- ◆ Second shift work “MAY” be after approval by DPS.

9. **DIRT, DUST AND NOISE**

- ◆ Daily clean up will done by the contractors to maintain a clean site.
- ◆ Roadway debris will be kept clean using a tractor mounted road sweeper or other appropriate means.
- ◆ Noise in adjacent areas to summer school classrooms will be kept to a minimum so as to not interfere with class studies. **NO NOISE** is permitted during testing.

10. **BI-WEEKLY UPDATE MEETINGS**

- ◆ Bi-weekly update meetings will be scheduled during the Kick-Off meeting.

11. **COMMUNICATIONS PROCEDURES**

- ◆ All communication to the principal or the Owner will flow through **Insert Contact Here**

DURHAM PUBLIC SCHOOL BOARD POLICY

Descriptor Term: USE OF TOBACCO PRODUCTS	Descriptor Code: 2210
---	--

Draft Date: August 26, 1992	Date Issued by Superintendent: August 26, 1992	Revised by Board: October 24, 2013
--	---	---

The Board of Education recognizes that the use of tobacco products is a health, safety and environmental hazard for students, employees, visitors and school facilities. The Board also acknowledges that adult employees serve as role models for students and that the Board's acceptance of any use of tobacco products implies school approval, if not endorsement, of such use. In addition, the Board recognizes that it has an obligation to promote a healthy learning and working environment, free from unwanted smoke, for the students, employees and visitors of the school system.

Tobacco Use Prohibited

No student, staff member school visitor or any other person is permitted to use any tobacco product at any time, including non-school hours, in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the Durham Public Schools. Further, no student is permitted to possess a tobacco product while in any school building, while on school grounds or property or at any school-sponsored or school-related event or at any other time that students are under the authority of school personnel.

The use of any tobacco product is also prohibited by any person attending a school-sponsored event, no matter where located, when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

Tobacco products may be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

For the purposes of this policy, "tobacco product" is defined to include cigarettes, cigars, pipes, chewing tobacco, snuff, and any other items containing tobacco, or any items reasonably resembling tobacco or tobacco products, including electronic cigarettes. Tobacco use includes smoking, chewing, dipping, or any other use of tobacco products.

Legal Reference: [G.S.115C-407](#)

Legal Reference: [G.S.143-595 through -601](#); [20 USC 6081-6084](#)



[PROJECT NAME HERE]

[photograph here]

**[CONTRACTOR
NAME HERE]**

TAG # 001

CONSTRUCTION FACILITIES

PART 1 - GENERAL

1.1 Related Documents

- A. The General Conditions of the Contract apply to this section.
- B. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this section.

1.2 Summary

- A. This Section includes requirements for temporary utilities, support facilities, and security and protection facilities.
- B. Temporary utilities required include, but are not limited to:
 - 1. Water service and distribution.
 - 2. Temporary electric power and light.
 - 3. Telephone service.
 - 4. Storm and sanitary sewer.
 - 5. Natural gas service and distribution.
- C. Temporary construction and support facilities required include, but are not limited to:
 - 1. Temporary climate conditioning.
 - 2. Field office and storage sheds.
 - 3. Temporary roads and paving.
 - 4. Sanitary facilities, including drinking water.
 - 5. Temporary enclosures.
 - 6. Hoists
 - 7. Temporary Project identification signs
 - 8. Waste disposal services.
 - 9. Rodent and pest control.
 - 10. Construction aids and miscellaneous services and facilities.
- D. Security and protection facilities required include, but are not limited to:
 - 1. Temporary fire protection.
 - 2. Barricades, warning signs, lights.
 - 3. Sidewalk bridge or enclosure fence for the site.
 - 4. Environmental protection.
- E. The responsibility to install, maintain, and remove this Work shall be the Contractor's. Temporary facilities provided by the Contractor include, but are not necessarily limited to:

Water service and distribution (including irrigation well(s)), or water storage tanks as required.

Temporary electric power and light.

Telephone service

Storm water

Sanitary sewer.

Temporary climate conditioning

Field office for Owner and General Contractor (Owner's office to be located in the General Contractor's office trailer).

Furnished with desk, chair, file cabinet, power, phone, data outlets and internet access.

Field offices & storage sheds for Contractors & subcontractors

Temporary roads and paving

Sanitary facilities, including drinking water

CONSTRUCTION FACILITIES

- Temporary enclosures
- Hoists
- Temporary Project identification signs and bulletin boards
- Waste collection and disposal services
- Rodent and pest control.
- Construction aids and miscellaneous services and facilities
- Temporary fire protection.
- Barricades, warning signs, lights.
- Sidewalk bridge or enclosure fence for the site.
- Environmental protection.
- Protection of stored materials
- Stairs (temporary and permanent)

1.3 Definitions

- A. Permanent Enclosure: As determined by Architect, permanent or temporary roofing is complete, insulated, and weather-tight; exterior walls are insulated and weather-tight; and all openings are closed with permanent construction or substantial temporary closures.

1.4 Use Charges

- A. General: Cost or use charges for temporary facilities shall be included in the Contract Sum. Allow other entities to use temporary services and facilities without cost, including, but not limited to, Owner's construction forces, Architect, testing agencies, and authorities having jurisdiction.
- B. Sewer Service: Pay sewer service use charges for sewer usage by all entities for construction operations.
- C. Water Service: Pay water service use charges for water used by all entities for construction operations.
- D. Electric Power Service: Pay electric power service use charges for electricity used by all entities for construction operations.

1.5 Submittals

- A. Temporary Utilities: Submit reports of tests, inspections, meter readings and similar procedures/performance on temporary utilities.
- B. Implementation and Termination Schedule: Submit a schedule indicating implementation and termination of each temporary utility within fifteen (15) days of the Notice to Proceed.
- C. Site Plan: Show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel.

1.6 Quality Assurance

- A. Regulations: Comply with industry standards and applicable laws and regulations of authorities having jurisdiction including but not limited to:
 - 1. Building Code requirements.
 - 2. Health and safety regulations.
 - 3. Utility company regulations.
 - 4. Police, Fire Department and Rescue Squad rules.
 - 5. Environmental protection regulations.

CONSTRUCTION FACILITIES

- B. Standards: Comply with NFPA Code 241, "Building Construction and Demolition Operations:", ANSI-A10 Series standards for "Safety Requirements for Construction and Demolition", and NECA Electrical Design Library "Temporary Electrical Facilities".
 - 1. Refer to "Guidelines for Bid Conditions for Temporary Job Utilities and Services", prepared jointly by AGC and ASC for industry recommendations.
 - 2. Electrical Service: Comply with NEMA, NECA and UL standards and regulations for temporary electrical service. Install services in compliance with National Electric Code and NFPA 70.
 - C. Inspections: Arrange for authorities having jurisdiction to inspect and test each temporary utility before use. Obtain required certifications and permits.
- 1.7 Project Conditions
- A. Temporary Utilities: At the earliest feasible time, and when acceptable to the Owner, change over from use of temporary service to use of the permanent service.
 - B. Conditions of Use: Keep temporary services and facilities clean and neat in appearance. Operate in a safe and efficient manner. Take necessary fire prevention and safety measures. Do not operate facilities or utilities in a manner causing overloads, or interference's with Work progress. Do not allow hazardous, dangerous, unsanitary or public nuisances to develop. Regularly inspect and promptly correct non-conforming conditions.
 - C. The General Contractor is responsible to maintain the area inside the construction fencing and or limits of construction for the duration of the project. This includes cutting the grass and weed eating along the fence and around any objects weekly, and picking up trash and debris on a daily basis.

PART 2 - PRODUCTS

- 2.1 Materials
- A. General: Provide new materials suitable for the use intended; if acceptable to the Architect, undamaged previously used materials in serviceable condition may be used.
 - B. Pavement: Comply with Division 32 Section "Asphalt Paving."
 - C. Wood Enclosure Fence: Plywood, 6 feet high, framed with four 2-by-4-inch rails, with preservative-treated wood posts spaced not more than 8 feet apart.
 - D. Lumber and Plywood: Comply with requirements in Division 6, Section "Rough Carpentry."
 - E. Gypsum Board: Minimum 1/2 inch thick by 48 inches wide by maximum available lengths; regular-type panels with tapered edges. Comply with ASTM C 36.
 - F. Insulation: Un-faced mineral-fiber blanket, manufactured from glass, slag wool, or rock wool; with maximum flame-spread and smoke-developed indexes of 25 and 50, respectively.
 - G. Paint: Comply with requirements in Division 9 painting Sections.
- 2.2 Temporary Facilities
- A. General: Provide equipment suitable for the use intended; if acceptable to the Architect, undamaged, previously used equipment in serviceable condition may be used.
 - B. Common-Use Field Office: Of sufficient size to accommodate needs of construction personnel. Keep office clean and orderly. Furnish and equip offices as follows:
 - 1. Furniture required for Project-site documents including file cabinets, plan tables, plan racks, and bookcases.

CONSTRUCTION FACILITIES

2. Conference room of sufficient size to accommodate meetings of 20 individuals. Provide electrical power service and 120-V ac duplex receptacles, with not less than 1 receptacle on each wall. Furnish room with conference table, chairs, and 4-foot by 8 foot tack board.
3. Drinking water and private toilet.
4. Heating and cooling equipment necessary to maintain a uniform indoor temperature of 68 to 72 deg F.
5. Lighting fixtures capable of maintaining average illumination of 40 fc at desk height.
- C. Storage and Fabrication Sheds: Provide sheds sized, furnished and equipped to accommodate materials and equipment for construction operations.
 1. Store combustible materials apart from building.
- D. Electrical Outlets: Provide properly configured NEMA polarized outlets that prevent insertion of 110-120 volt plugs into higher voltage outlets. Provide receptacle outlets equipped with ground-fault circuit interrupters, reset buttons and pilot lights for connection of power tools and equipment within 100 ft of all work areas.
- E. Electrical Power Cords: All Contractors shall provide UL tested and labeled, grounded extension cords of an appropriate gauge for the intended application; use "hard-service" cords where exposed to abrasion and traffic. Provide waterproof connectors to connect separate lengths of electric cords, if single lengths will not reach areas where construction activities are in progress.
- F. Lamps and Light Fixtures: Provide GFCI protected general service incandescent lamps of wattage required for adequate illumination. Provide guard cages or tempered glass enclosures where exposed to breakage. Provide exterior fixtures where exposed to moisture.
- G. HVAC: Unless Owner authorizes use of permanent HVAC system, provide vented, self-contained, liquid-propane-gas or fuel-oil heaters with individual space thermostatic control.
 1. Use of gasoline-burning space heaters, open-flame heaters, or salamander-type heating units is prohibited.
 2. Heating Units: Listed and labeled for type of fuel being consumed, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
 3. Permanent HVAC System: If Owner authorizes use of permanent HVAC system for temporary use during construction, provide filter with MERV of 8 at each return air grille in system and remove at end of construction.
- H. Temporary Toilet Units: Provide self-contained, single-occupant toilet units of the chemical aerated recirculating type, properly vented and fully enclosed with a glass fiber reinforced polyester shell or similar nonabsorbent material. Include temporary toilets, wash facilities and drinking water fixtures. Comply with regulations and health codes for the type, number, location, operation and maintenance of fixtures and facilities. Install where facilities will best serve the Project's needs.
- I. First Aid Supplies: Comply with governing regulations.
- J. Fire Extinguishers: Provide hand-carried, portable UL-rated, class "ABC" fire extinguishers for temporary office and similar spaces. In other locations, provide hand-carried, portable, UL-rated, class "ABC" dry chemical extinguishers, or a combination of extinguishers of NFPA recommended classes suited for the exposures.
 1. Comply with NFPA 10 and 241 for classification extinguishing agent and size required by location and class of fire exposure.
 2. Provide a designated fire watch individual with welding blankets and welding screens as required to limit risks associated with welding, cutting and burning.
- K. Temporary Project Sign: Provide a construction sign as described herein, in format indicated following this section, in a location directed by the Architect/Owner. The Project sign shall be double faced, two-directional sign consisting of two sheets of 3/4" X 4' 0" x 8' 0" exterior grade plywood, attached with 1/4" diameter bolts through two 4 x 4 wood posts set 3' 0" deep in

CONSTRUCTION FACILITIES

compacted earth. The format shall be as indicated following this section and will include Owner's name and logo, project title, Architect's name and logo, and Contractor's name and logo. Additionally, provide directional information signs to inform the public and persons seeking entrance to the Project. Support on posts or framing of preservative treated wood or steel. Do not permit installation of unauthorized signs.

PART 3 - EXECUTION

3.1 Installation, General

- A. Use qualified personnel for installation of temporary facilities. Locate facilities where they will serve the Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required.
- B. Provide each facility ready for use when needed to avoid delay. Maintain and modify as required. Do not remove until facilities are no longer needed, or are replaced by authorized use of completed permanent facilities.
- C. The cost for installation, maintenance, removal or use of temporary facilities and utilities are not chargeable to the Owner or Architect and will not be accepted as a basis of claims for a Change Order.
- D. All temporary utilities' operational expenses shall be borne by the General Contractor, unless otherwise indicated.
- E. Utilities or facilities not referenced in this section for installation, but required for the full development of the Project shall be installed and maintained in a workmanlike manner. The cost for unspecified facilities shall be borne by the General Contractor if reasonably inferable from the Construction Documents.

3.2 Temporary Utility Installation

- A. General: Engage the appropriate Utility Company to install temporary service or connect to existing service. Where the Utility provides only part of the service, provide the remainder with matching compatible materials and equipment; comply with the Utilities recommendations.
 - 1. Arrange with the Utility and existing users for a time when service can be interrupted, where necessary, to make connections for temporary services.
 - 2. Obtain easements to bring temporary utilities to the site, where the Owners easements cannot be used for that purpose.
 - 3. Provide adequate capacity at each stage of construction. Prior to temporary utility availability provide trucked-in services.
 - 4. Cost or use charges for temporary facilities are not chargeable to the Owner or Architect and will not be accepted as the basis of claims for a change order.
- B. Sewers and Drainage: Provide temporary utilities to remove effluent lawfully.
 - 1. Connect temporary sewers to municipal system as directed by authorities having jurisdiction.
- C. Water Service: Install water service and distribution piping in sizes and pressures adequate for construction. Construct irrigation well(s) as required to maintain grass and landscaping. See Division 1 Section "Allowances" for additional information.
- D. Sanitary Facilities: Provide temporary toilets, wash facilities, and drinking water for use of construction personnel. Comply with authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.
- E. Temporary HVAC systems: Provide temporary climate conditioning in any building area until the permanent HVAC system is operational, especially if the current Project schedule indicates the start of the ceiling tiles, carpeting, wood casework, or other environmentally sensitive system or material. Select safe equipment that will not have a harmful effect on completed

CONSTRUCTION FACILITIES

installations or elements being installed. Coordinate ventilation requirements to produce the ambient condition required and minimize consumption of energy. The General Contractor must include in his critical path schedule provisions for electrical power, natural gas service, water, sewer and storm drainage utilities to be fully functional and available to enable the HVAC systems to be operated as required to facilitate the installation of the ceiling tile, carpet or wood casework, or other environmentally sensitive system or material. He shall assume responsibility for providing heating or cooling after the current Project schedule indicates the start of the ceiling tiles, carpeting, or wood casework. The permanent systems in any area of the building shall not be started unless all doors and windows in exterior walls are installed, or suitable temporary construction is in place and building is relatively dust free (i.e., floors are broom clean, drywall finishing and paint spraying are completed). If in the Architect's sole opinion, conditions exist sufficient to comprise the "quality of the system" at the date of Acceptance by the Owner; the authorization to startup the permanent systems shall be withheld until such time as the unsatisfactory conditions are corrected. The additional cost to maintain the operation of the temporary heating or cooling system shall be the Contractor's. Systems shall operate sufficiently to maintain the minimum temperature and relative humidity of the designed system +/- 15 percent.

- F. Electric Power Service: Provide electric power service and distribution system of sufficient size, capacity, and power characteristics required for construction operations.
- G. Lighting: When overhead floor or roof deck has been installed, provide GFCI protected temporary lighting with local switching. Install and operate temporary lighting that will fulfill security and protection requirements and provide adequate illumination for construction operations and traffic conditions. The temporary lighting system shall be installed in a manner such that it can be operated without operating the entire electrical system.
- H. Telephone Service: Provide temporary telephone service for the use of all personnel engaged in construction activities throughout the construction period. Install a separate line for each temporary office and first aid station. Where an office has more than two occupants, install a telephone for each additional occupant or pair of occupants. Provide a dedicated telephone line for each facsimile machine and computer in each field office. At each telephone post a list of important telephone numbers.
 - 1. Provide superintendent with cellular telephone for use when away from field office.
- I. Sewers and Drainage: If sewers are available, provide temporary connections to remove effluent that can be discharged lawfully.
 - 1. Filter out excessive amounts of soil, construction debris, chemicals, oils and similar contaminants that might clog sewers or pollute waterways before discharge.
 - 2. If sewers are not available or cannot be used, provide and maintain temporary sewers and drainage facilities in a clean, sanitary condition. Following heavy use, restore normal conditions promptly.
- J. Storm water control: Provide earthen embankments and similar barriers in and around excavations and subgrade construction sufficient to prevent flooding by runoff of storm water from heavy rains. Promptly remove and replace soils that become unsuitable for their intended purpose because of failure to comply with this requirement.
- K. The warranty on all equipment will be extended from start-up to one (1) year past the date of substantial completion of the Project. Extended warranties such as five year compressor warranties shall be extended beyond the period established by the actual start-up date of the equipment as defined herein.

3.3 Support Facilities Installation

- A. The General Contractor will locate field office, storage sheds, sanitary facilities and other temporary construction and support facilities for easy access in the areas designated for same. Maintain temporary construction and support facilities until near Substantial Completion.

CONSTRUCTION FACILITIES

Remove prior to Substantial Completion and restore the site to the condition prior to mobilization, unless otherwise directed. Personnel remaining after Substantial Completion will be permitted to use permanent facilities under conditions acceptable to the Owner.

- B. The General Contractor will provide non-combustible construction for offices, shops and sheds located within the construction area or within thirty (30) feet of building lines. Comply with requirements of NFPA 241.
- C. Temporary Roads and Paved Areas: Construct and maintain temporary roads and paved areas adequate for construction operations. Locate temporary roads and paved areas in same location as permanent roads and paved areas where possible. Extend temporary roads and paved areas, within construction limits indicated, as necessary for construction operations.
 - 1. Coordinate elevations of temporary roads and paved areas with permanent roads and paved areas.
 - 2. Prepare subgrade and install sub-base and base for temporary roads and paved areas according to Division 32 Section "Earth Moving".
 - 3. Recondition base after temporary use, including removing contaminated material, regarding, proof-rolling, compacting, and testing.
 - 4. Delay installation of final course of permanent hot-mix asphalt pavement until immediately before Substantial Completion. Repair hot-mix asphalt base-course pavement before installation of final course according to Division 32 Section "Asphalt Paving."
- D. Traffic Controls: Comply with requirements of authorities having jurisdiction.
 - 1. Protect existing site improvements to remain including curbs, pavement, and utilities.
 - 2. Maintain access for fire fighting equipment and access to fire hydrants.
- E. De-watering Facilities and Drains: Comply with requirements of authorities having jurisdiction. Maintain Project site, excavations, and construction free of water.
 - 1. Dispose of rainwater in a lawful manner that will not result in flooding Project or adjoining properties nor endanger permanent Work or temporary facilities.
 - 2. Remove snow and ice as required to minimize accumulations.
- F. Parking: Provide temporary parking areas for construction personnel.
- G. Project Identification and Temporary Signs: Provide Project identification and other signs. Install signs where indicated to inform public and individuals seeking entrance to Project. Unauthorized signs are not permitted.
 - 1. Provide temporary, directional signs for construction personnel and visitors.
 - 2. Maintain and touchup signs so they are legible at all times.
- H. Temporary Enclosures: Provide temporary enclosure for protection of construction in progress and completed from exposure, foul weather, other construction operations and similar activities.
 - 1. Where climate conditioning is needed and the permanent building enclosure is not complete, provide temporary enclosures where there is no other provision for containment of conditioning. Coordinate enclosure with ventilating and material drying or curing requirements to avoid dangerous conditions and effects.
 - 2. Install tarpaulins securely with non-combustible wood framing and other materials.
 - 3. Close openings through floor or roof decks and horizontal surfaces with load-bearing wood-framed construction.
 - 4. Separate occupied areas of existing facilities from the construction areas with enclosures and dust partitions as needed.
- I. Temporary Lifts and Hoists: Provide facilities for hoisting materials and employees. Truck cranes and similar devices used for hoisting materials are considered "tools and equipment" and not temporary facilities.
- J. Rodent and Pest Control: Before deep foundation Work has been completed, (if applicable) retain a local exterminator or pest control company to recommend practices to minimize attraction and harboring of rodents, roaches and other pests. Employ this service to perform

CONSTRUCTION FACILITIES

extermination and control procedures at regular intervals so the Project will be relatively free of pests and their residues at Substantial Completion. Perform control operations in a lawful manner using environmentally safe materials. Submit the recommendations and reports of the exterminator to the Architect for review.

- K. Temporary Stairs: Until permanent stairs are available, provide temporary stairs where ladders are not adequate.
 - 1. Provide protective coverings, barriers, devices, signs, or other procedures to protect stairs and to maintain means of egress. If, despite such protection, stairs become damaged, restore damaged areas so no evidence remains of correction work.
- L. Temporary Elevator Use: Refer to Division 14 Sections for temporary use of new elevator.

3.4 Security and Protection Facilities Installation

- A. Do not change over from use of temporary security and protection facilities to permanent facilities until Substantial completion, or longer as requested by the Architect.
- B. Temporary Fire Protection: Until fire protection needs are supplied by permanent facilities, install and maintain temporary fire protection facilities of the types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 10 “Standard for Portable Fire Extinguishers” and NFPA 241 “Standard for Safeguarding Construction, Alterations and Demolition Operations”.
 - 1. Locate fire extinguishers where convenient and effective for their intended purpose, but not less than one extinguisher on each floor.
 - 2. Store combustible materials in containers in fire-safe locations.
 - 3. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire protection facilities, stairways and other access routes for fighting fires.
 - 4. Provide supervision of welding operations, combustion type temporary heating units and similar sources of fire ignition.
- C. Barricades, Warning Signs and Lights: Comply with standards and code requirements for erection of structurally adequate barricades. Paint with appropriate colors, graphics and warning signs to inform personnel and the public of the hazard being protected against. Where appropriate and needed provide lighting, including flashing red or amber lights.
- D. Security Enclosure and Lockup: Install substantial temporary enclosure of partially completed areas of construction. Provide locking entrances to prevent unauthorized entrance, vandalism, theft and similar violations of security. Where materials and equipment must be stored and are of value or attractive for theft, provide a secure lockup. Enforce discipline in connection with the installation and release of material to minimize the opportunity for theft and vandalism.
- E. Environmental Protection: Provide protection, operate temporary facilities and conduct construction in ways and by methods that comply with environmental regulations and minimize the possibility that air, waterways and soils might be contaminated or polluted or that other undesirable effects might result. Avoid use of tools and equipment that produce harmful levels of noise. Restrict use of noise making tools and equipment to hours that will minimize complaints from persons or firms near the site.
- F. Protection Of Installed Work
 - 1. Protect installed work and provide special protection where specified in individual specification Sections.
 - 2. Provide temporary and removable protection for installed products. Control activity in immediate work area to minimize damage.
 - 3. Provide protective coverings at walls, projections, jambs, sills, and soffits of openings.
 - 4. Protect, with durable sheet materials, finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects.
 - 5. Prohibit traffic on landscaped areas.
- H. Protection of Roof and Water-proofing

CONSTRUCTION FACILITIES

1. Protect from damage due to subsequent construction operations.
2. Prohibit traffic or storage upon waterproofed or roofed surfaces. If traffic or activity is necessary, comply with recommendations for protection from waterproofing or roofing material manufacturer.
3. For construction materials stored on the roof, store over plywood, particleboard, or other approved protection board. Do not exceed the design load with stored materials and other anticipated live loads.
4. Do not store construction materials on roof and flashing.
5. Where mechanical and other construction work is performed from the roof, the immediate area shall be protected with plywood, particleboard, or other approved protection board. Where construction workers are likely to walk protect similarly. Contractor shall provide protective covering on the roof after roofing is installed.
6. Remove protection board from the site upon completion of the work.

3.5 Operation, Termination and Removal

- A. Supervision: Enforce strict discipline in use of temporary facilities. Limit availability of temporary facilities to essential and intended uses to minimize waste and abuse.
- B. Maintenance: Maintain facilities in good operating condition until removal. Protect from damage by adverse weather conditions.
 1. Maintain operation of temporary enclosures, heating, cooling, humidity control, ventilation and similar facilities on a 24-hour day basis where required to achieve indicated results and to avoid possibility of damage.
 2. Prevent water filled piping from freezing.
 3. Maintain markers for underground lines. Protect from damage during excavation operations.
- C. Termination and Removal: Unless the Architect requests that it be maintained longer, remove each temporary facility when the need has ended, when replaced by authorized use of a permanent facility, or not later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with the temporary facility. Repair damaged Work, clean exposed surfaces and replace construction that cannot be satisfactorily repaired.
 1. Materials and facilities that constitute temporary facilities are property of the Contractor. The Owner reserves the right to take possession of Project identification signs.
 2. Remove temporary paving that is not intended for or acceptable for integration into permanent paving. Where the area is intended for landscape development remove soil and aggregate fill that does not comply with requirements for fill or subsoil in the area. Remove materials contaminated with road oil, asphalt and other chemical compounds and other substances which might impair growth of plant materials or lawns. Repair or replace street paving, curbs and sidewalks at the temporary entrances as required by the governing authority.
 3. At Substantial Completion, clean and renovate permanent facilities that have been used during the construction period, including but not limited to:
 - a. Replace air filters not less than once a month and clean inside of ductwork.
 - b. Replace significantly worn parts and parts that have been subject to unusual operating conditions.
 - c. Replace lamps that are burned out or noticeably dimmed by substantial hours of use.

END OF SECTION 01 52 00

CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

- PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes administrative and procedural requirements for the following:
 - 1. Recycling nonhazardous construction waste
 - 2. Disposing of nonhazardous demolition and construction waste.

1.3 DEFINITIONS

- A. Construction Waste: Building, structure, and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.
- B. Demolition Waste: Building, structure, and site improvement materials resulting from demolition operations.
- C. Disposal: Removal of demolition or construction waste and subsequent salvage, sale, recycling, or deposit in landfill, incinerator acceptable to authorities having jurisdiction, or designated spoil areas on Owner's property.
- D. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.
- E. Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.
- F. Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.

1.4 MATERIALS OWNERSHIP

- A. Unless otherwise indicated, demolition and construction waste becomes property of Contractor.

CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

1.5 QUALITY ASSURANCE

- A. Regulatory Requirements: Comply with transportation and disposal regulations of authorities having jurisdiction.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 RECYCLING CONSTRUCTION WASTE, GENERAL

- A. General: Recycle paper and beverage containers used by on-site workers.
- B. Recycling Incentives: Revenues, savings, rebates, tax credits, and other incentives received for recycling waste materials shall be shared equally by Owner and Contractor.
- C. Preparation of Waste: Prepare and maintain recyclable waste materials according to recycling or reuse facility requirements. Maintain materials free of dirt, adhesives, solvents, petroleum contamination, and other substances deleterious to the recycling process.
- D. Procedures: Separate recyclable waste from other waste materials, trash, and debris. Separate recyclable waste by type at Project site to the maximum extent practical according to approved construction waste management plan.
 - 1. Provide appropriately marked containers or bins for controlling recyclable waste until removed from Project site. Include list of acceptable and unacceptable materials at each container and bin.
 - a. Inspect containers and bins for contamination and remove contaminated materials if found.
 - 2. Remove recyclable waste from Owner's property and transport to recycling receiver or processor as often as required to prevent overfilling bins.

3.2 RECYCLING CONSTRUCTION WASTE

- A. Packaging:
 - 1. Cardboard and Boxes: Break down packaging into flat sheets. Bundle and store in a dry location.
 - 2. Polystyrene Packaging: Separate and bag materials.
 - 3. Pallets: As much as possible, require deliveries using pallets to remove pallets from Project site. For pallets that remain on-site, break down pallets into component wood pieces and comply with requirements for recycling wood.
 - 4. Crates: Break down crates into component wood pieces and comply with requirements for recycling wood.

CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

- B. Wood Materials:
 - 1. Clean Cut-Offs of Lumber: Grind or chip into small pieces.
 - 2. Clean Sawdust: Bag sawdust that does not contain painted or treated wood.
- C. Paint: Seal containers and store by type.

3.3 DISPOSAL OF WASTE

- A. General: Except for items or materials to be salvaged or recycled, remove waste materials from Project site and legally dispose of them in a landfill or incinerator acceptable to authorities having jurisdiction.
 - 1. Except as otherwise specified, do not allow waste materials that are to be disposed of accumulate on-site.
 - 2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
- B. Burning: Do not burn waste materials.

END OF SECTION 017419

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
 - 1. Inspection procedures.
 - 2. Project Record Documents.
- B. Specific requirements of each contract are also indicated in individual Specification Sections, All Bid Documents and on Drawings.

PART 2- PRODUCTS

PART 3- EXECUTION

3.1 FINAL CLEANING

- A. General: Provide final cleaning. Final Cleaning is the responsibility of the General Contractor. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Do not burn waste materials. Do not bury debris or excess materials on Durham Public Schools' property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove waste materials from Project site and dispose of lawfully.

END OF SECTION 01 77 00

Closeout Requirements

[Insert Date]

Contractor: **[Insert Contractor]** Substantial Completion Date: **[Insert Substantial Completion Date]**

The following documents must be completed and submitted by each prime contractor. Documents shall be submitted to the Architect in a single package with this (completed) checklist attached. The Architect must receive all documents before the Contractor's Final Application for Payment can be reviewed.

- _____ 1. *Final Application for Payment (with Continuation Sheets & Tax Reports)
- _____ 2. *Executed Certificate of substantial Completion with punch list attached.
- _____ 3. *Contractor's Affidavit of Payment of Debts and Claims (fully executed – AIA Form G706)
- _____ 4. *Contractor's Affidavit of Release of Liens (fully executed – AIA Form G 706A)
- _____ 5. *Release of liens by subcontractors and/or vendors (fully executed – when required)
- _____ 6. *Consent of Surety to Final Payment (AIAG707)
- _____ 7. Certificate of Occupancy from proper municipality
- _____ 8. Contractor's One-Year Warranty (notarized)
- _____ 9. Warranty summary sheet and original warranties for specific items (roof, motors, etc.)
- _____ 10. Certification letter from Contractor stating that no asbestos containing materials were used.
- _____ 11. Final list of all subcontractors with names, addresses, and phone numbers
- _____ 12. Record Drawings and cover letter indicating that they have been reviewed and are as accurate and complete as possible.
- _____ 13. Certified Testing and Balancing Report for HVAC System with cover letter indicating it has been reviewed and approved by consulting Engineer.

*** Provide directly to Architect (Attn: Director of Bidding and Contract Services). Do not include in O&M manuals.**

All remaining items shall be directed to the Architect's Construction Administrator.

Contractor's Signature

Date

Architect/Engineer's Signature

Date

DPS Close-out Manager's Signature

Date

SECTION 02092

CODES AND REGULATIONS

1.01 REFERENCE SPECIFICATIONS

The contractor shall assume full responsibility and liability for compliance with all applicable federal, state and local regulations pertaining to work practices, hauling, disposal, and protection of workers, visitors to the site, and persons occupying areas adjacent to the site.

Unless modified by these project specifications, all specifications for stripping, removal, repair and disposal work shall conform to the following specifications and standards, as applicable, as if completely reproduced herein.

A. The following regulations published by the Environmental Protection Agency (EPA):

1. "National Emissions Standards for Hazardous Air Pollutants Asbestos," 40 CFR Part 61, Subpart M.
2. "General Provisions," 40 CFR Part 61, Subpart A.
3. "Guidance for Controlling Asbestos-Containing Materials in Buildings" June 1985. (EPA # 560/5-85-024).
4. "Asbestos-Containing Materials in Schools," 40 CFR Part 763, Subpart E including appendices.

B. The following regulations published by the U.S. Department of Labor, OSHA:

1. "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Final Rules," Title 29, Part 1910, Section 1001 and Part 1926, Section 1101 of the Code of Federal Regulations.
2. "Respiratory Protection," Title 29, Part 1910, Section 134 of the Code of Federal Regulations.
3. Construction Industry, Title 29, Part 1926, of the Code of Federal Regulations.
4. "Access to Employee Exposure and Medical Records," Title 29, Part 1910, Section 20 of the Code of Federal Regulations.
5. "Hazard Communication," Title 29, Part 1926, Section 59 of the Code of Federal Regulations.
6. "Specifications for Accident Prevention Signs and Tags," Title 29, Part 1910, Section 145 of the Code of Federal Regulations.

C. The following regulations published by North Carolina state agencies:

1. North Carolina Asbestos Hazard Management Program Rules as adopted by 15A NCAC 19C .0600.
 2. "North Carolina Occupational Safety and Health Standards for the Construction Industry," 29 CFR Part 1926 as adopted by T13 NCAC 07F .0201, and shipyard T13:07F.0500.
 3. North Carolina General Statutes, Chapter 95, 97, 130.
- D. The following documents published by the American National Standards Institute:
1. "Fundamentals Governing the Design and Operation of Local Exhaust Systems," Z9.2-1979.
 2. "American National Standard for Respiratory Protection Respiratory Use - Physical Qualifications for Personnel," Z88.6-1984.
 3. "Practices for Respiratory Protection," Z88.2-1992.

1.02 NOTICES

- A. The contractor shall notify the following offices in writing within the time frame specified by the NESHAP regulations prior to beginning any asbestos removal operations.

1. State Agencies

Health Hazards Control Branch
Occupational & Environmental Epidemiology Section
N.C. DEHNR

(Regular Mail)
P.O. Box 27687
Raleigh, N.C. 27611-7687
Telephone: (919) 733-0820
Fax: (919) 733-8493

(UPS, Fed Ex, etc.)
2728 Capital Blvd
Parker Lincoln Bldg.
Second Floor / 2A210
Raleigh, N.C. 27604

N.C. Department of Labor
Division of Occupational Safety and Health
319 Chapanoke Road, Suite 105
Raleigh, N.C. 27603-3432
Telephone: 1-800-LABOR-NC or (919) 662-4602
Fax: (919) 662-4625

2. Local Programs

When work is performed in Buncombe/Haywood, Mecklenburg or Forsyth counties, the air quality programs in these counties must be notified and their regulations shall be adhered to. Addresses of these agencies can be found on page 3 of DEHNR (3768) form. Phone numbers are listed below.

Buncombe/Haywood Counties (704) 255-5710

Forsyth County
Mecklenburg County

(910) 727-8064
(704) 336-5599

3. Emergency Departments

Notify the local emergency medical services, police and fire departments in writing of the type and scope of work being performed and request these departments make an inspection prior to beginning the work.

4. Licenses

Maintain current licenses for contractor and accreditation for workers and supervisors as required by applicable State or local jurisdictions for the removal, transporting, disposal or other regulated activity relative to the work of this contract.

5. A courtesy notification for any amount of asbestos, regulated or non-regulated, to be removed shall be sent to the HHCB 10 working days prior to the start date of the asbestos removal.

SECTION 02410

AIR MONITORING - INDUSTRIAL HYGIENE FIRM

1.01 GENERAL

- A. The designer shall be responsible for the coordination and contracting of an industrial hygiene firm. Services of the industrial hygiene firm will be paid by the owner.
- B. Air monitoring shall be done under the direct supervision of a North Carolina accredited supervising air monitor (SAM), except for sampling performed by the contractor to satisfy OSHA requirements.
- C. SAM shall be accredited per the Asbestos Hazard Management Program rules.
- D. Air monitor shall be accredited as per the Asbestos Hazard Management Program rules and work under the direct supervision of a SAM.
- E. The SAM representing each firm shall have taken a 24-hour respiratory protection course that is either NIOSH, AIHA or HHCB recognized.
- F. The industrial hygiene firm shall submit copies of their N.C. accreditations and documentation on respiratory protection training to the designer prior to the award of the contract.
- G. If specific project activities are assigned to an air monitor, the SAM is expected to be in direct control and responsible for industrial hygiene work completed on the project. The SAM shall approve and sign all air monitoring results performed by the air monitor. The SAM signature must be an original. No rubber stamp signature shall be accepted.
- H. Employees of the HHCB shall have right of entry into the project. The HHCB's SAM shall have final authority over the industrial hygiene firm on the project.

1.02 DESCRIPTION OF WORK

- A. The industrial hygiene firm shall offer expertise to the designer and contractor, but is not directly responsible for the performance of the job.
- B. At the job site, the industrial hygiene firm is expected to observe, be aware, and comment on general work site conditions and activities as they relate to the specifications and profession of industrial hygiene, and make recommendations in writing to the designer and contractor.
- C. The industrial hygiene firm is responsible for overseeing the protection of the environment from contamination, protection of persons in adjacent areas, and assurance that the areas are acceptable for occupancy.
- D. The industrial hygiene firm has the authority to direct the contractor relative to safety and environmental concerns. This includes stopping the work if necessary. All directions and

comments made by the industrial hygiene firm to the contractor shall be written with a copy to the designer.

- E. The industrial hygiene firm shall furnish the contractor a copy of his field report within 24 hours of the visit. Copies of field notes and reports of observations shall be kept in project log book.
- F. The SAM shall review and make comments to the designer on the submittals listed in Section 01043.
- G. The SAM shall approve any change in contractor's respiratory protection. This includes a review of the historical data.
- H. The industrial hygiene firm is to conform to the contractor's schedule and shall respond to necessary changes, provided an advance notice is given as outlined in Section 01043.
- I. The industrial hygiene firm's project monitor shall furnish designer and contractor with a pager or mobile phone number where he can be reached quickly at all times.
- J. The industrial hygiene firm shall notify the designer and contractor, in writing, of any failed clearance visits.
- K. At the completion of the project, the industrial hygiene firm shall prepare a report describing the assessment of the project, all air monitoring data, acceptance letters, calibration records, and a description of the project as it proceeded to completion and submit four copies of the report to the designer.

1.03 AIR MONITORING

- A. Ambient Air Monitoring: The purpose of ambient air monitoring by the industrial hygiene firm will be to detect discrepancies in the work area isolation such as:
 - 1. Contamination of the building outside of the work area with airborne asbestos fibers.
 - 2. Failure of filtration or rupture in the negative pressure system.
 - 3. Confirm the work practices established by the contractor and respiratory protection provided for employees are adequate.
- B. Work Area Airborne Fiber Levels: The owner's industrial hygiene firm will monitor airborne fiber levels in the work area. The purpose of this air monitoring will be to detect airborne fiber levels which may challenge the ability of the work area isolation procedures to protect the balance of the building or outside of the building from contamination by airborne fibers.
- C. Work Area Clearance: To determine if the elevated airborne fiber levels encountered during abatement operations have been reduced to an acceptable level, the industrial hygiene firm will sample and analyze air per Section 01714.
- D. In accordance with AHMB Program Rules, the SAM shall develop an Abatement Project

Monitoring Plan which complies with EPA and OSHA analytical criteria and will provide a valid representation of airborne fiber concentrations both inside and outside the work area. This program is not intended to satisfy the contractor's requirement for sampling under the OSHA regulation. All personnel and area sampling conducted by the industrial hygiene firm shall be personally observed. Air sampling pumps shall not be left unattended for extended periods of time.

1. The SAM shall submit a written project monitoring plan to the designer with a copy to the contractor. The following information shall be required for the submittal.
 - a. The name, address and telephone number of the industrial hygiene firm.
 - b. The name, address, telephone number and NIOSH's PAT designation and proficiency data for the laboratory analyzing the air samples. Analysis of all samples collected shall be by a laboratory currently proficient in NIOSH's "Proficiency Analytical Testing Program for Laboratory Quality Control" for asbestos. The acceptable sampling and analysis method is NIOSH 7400, latest revision.

Persons performing phase contrast microscopy analysis at the asbestos removal location shall be proficient in the American Industrial Hygiene Association's Asbestos Analyst Registry Program [AAR].

- c. A proposed air sampling strategy which shall include: a projected number of air samples, locations, the types of air samples to be collected (personal, area, ambient), how the air samples are to be collected (TWA, ceiling, other), the equipment to be used (pumps, calibration equipment, filters, other), and how the samples will be transported to the laboratory.
 1. All personal air samples will be collected in such a manner as to comply with OSHA collection and analytical regulations and to provide a valid representation of airborne fiber levels. The samples collected by the industrial hygiene firm on personnel do not satisfy the contractor's responsibility under OSHA.
 2. All final area air sampling will comply with all State and Federal requirements in measuring airborne asbestos following an abatement action.
 3. Air samples will be analyzed and results made available as per the AHMB Program Rules. Copies of all air sampling results shall be signed by the SAM and a copy posted at the job site. These copies shall include the following: sample number, sample location, activity represented by sample, flow rate, sample time, comments and sample results. A statement will be included on each submission that the requirements of this contract have been met as they apply to the activities of the SAM.
 4. If TWA samples are being collected by the contractor for the

purpose of reducing respiratory protection requirements, the industrial hygiene firm shall directly observe the conditions and work practices represented by each sample and make appropriate notes in the bound book on site. The SAM shall review all TWA air sampling results which are used for reducing respiratory protection requirements before accepting the results.

- E. Supplemental air monitoring may be conducted inside and outside the work area by the HHCB. This supplemental sampling does not fulfill air monitoring responsibilities required by OSHA, EPA or this contract.

SECTION 02503

TEMPORARY FACILITIES

1.01 GENERAL

- A. Provide temporary connection to existing building utilities or provide temporary facilities as required herein or as necessary to carry out the work.
- B. Use qualified tradesmen for installation of temporary services and facilities. Locate, modify and extend temporary services and facilities where they will serve the project adequately and result in minimum interference with the performance of the work.
- C. In occupied buildings, the owner's maintenance personnel shall lock and tag out all electrical and HVAC equipment in the asbestos abatement area. The contractor shall verify that the power and HVAC have been locked and tagged out prior to beginning work.
- D. In unoccupied buildings, the contractor is responsible for the lock and tag out of all power sources and HVAC equipment.
- E. The owner shall move all furniture, books, computers, records, equipment, etc. prior to the contractor's arrival date as specified.

1.02 WATER SERVICE

- A. Owner shall supply a source of water. Contractor bears all expense of heating and getting water to the work and decontamination areas.
- B. Supply hot and cold water to the decontamination unit in accordance with Section 01563. Hot water shall be supplied at a minimum temperature of 100 degrees Fahrenheit.
- C. After completion of use, connections and fittings shall be removed without damage or alteration to existing water piping and equipment.

1.03 ELECTRICAL SERVICE

- A. General: Comply with applicable NEMA, NEC and UL standards and governing state and local regulations for materials and layout of temporary electric service.
- B. Ground Fault Protection: Provide receptacle outlets equipped with ground fault circuit interrupters, reset button and pilot light, for plug-in connection of power tools and equipment.
- C. Provide a weatherproof, grounded temporary electric power service and distribution system of sufficient size, capacity and power characteristics to accommodate performance of work during the construction period.
- D. Install temporary lighting adequate to provide sufficient illumination for safe work and traffic conditions in every area of work.

- E. Provide services of an electrician, on a standby basis, to service electrical needs during the abatement process.
- F. Provide additional power service and distribution service, consisting of individual dedicated 15 amp 120 volt circuits to electrical drops with receptacle outlets equipped with ground fault interrupt protection, color coded for the exclusive use of the industrial hygiene firm.

1.04 FIRST AID

- A. A minimum of one first aid kit shall be located in the clean room. Additional first aid kits as the contractor feels is adequate or is required by law shall be located throughout the work area.

1.05 FIRE EXTINGUISHERS

- A. Comply with the applicable recommendations of NFPA Standard 10 - "Standard for Portable Fire Extinguishers." Locate fire extinguishers where they are most convenient and effective for their intended purpose, but provide not less than one extinguisher in each work area equipment room and one in the clean room of the personnel decontamination unit.

1.06 TOILET FACILITIES

- A. Provide temporary toilet facilities to be used by contractor's employees. Use of the owner's existing toilet facilities will be at owner's discretion and these privileges may be revoked at any time.

1.07 PARKING

- A. Park only in areas designated by the owner.

1.08 BUILDING SECURITY

- A. Maintain personnel on-site at all times any portion of the work areas are open or not properly secured. Secure work areas completely at the end of each day.

1.09 STORAGE

- A. Supply temporary storage required for storage of equipment and materials for duration of project. Trailer and storage dumpsters will be maintained in areas designated by the owner.

SECTION 02513

NEGATIVE PRESSURE SYSTEM

1.01 GENERAL

- A. High efficiency particulate air (HEPA) filter exhaust systems equipped with new HEPA filters for each project shall be used. Exhaust equipment and systems shall comply with ANSI Z9.2-79 and used according to manufacturer's recommendations.
- B. A system of HEPA-equipped air filtration devices shall be configured so that a pressure differential is established between the work area and the surrounding area (-0.02 to -0.04" water column). A continuous chart-recorded manometer shall be used to confirm this condition.
- C. Additional air filtration devices shall be provided inside the work area for emergency standby as well as for circulation of dead air spaces.
- D. The pressure differential is maintained at all times after preparation is complete and until the final visual inspection and air tests confirm the area is clean and acceptable for occupancy and the designer confirms verbally with written follow-up to discontinue the use of the negative pressure system.
- E. Air shall be exhausted outside the building. Any variations must be approved by the HHCB.
- F. The contractor shall check daily for leaks and log his checks in the bound log book. This includes checks internal to air-moving devices.
- G. There shall be a minimum of four air changes per hour in any containment.

SECTION 02526

WORK AREA PREPARATION

1.01 GENERAL

- A. Before work begins in an area, a decontamination unit must be in operation as outlined in Section 01563.
- B. Completely isolate the work area from other parts of the building so as to prevent contamination beyond the isolated area.
- C. Temporary facilities shall be addressed as outlined in Section 01503.
- D. The contractor shall set up a work area, load out, and decontamination area as shown in the plans and specifications. Any variations must be approved by the designer. The decontamination facility outside of the work area shall consist of a change room, shower room and equipment room as described in Section 01563.
- E. The contractor shall wet clean and/or HEPA vacuum all items and equipment in the work area suspected of being contaminated with asbestos, but not in direct contact with the asbestos material and either secure these items in place with polyethylene sheeting or have them removed from the work area.
- F. Critical Barriers: The contractor shall thoroughly seal the work area for the duration of the work by completely sealing off all individual openings and fixtures in the work area, including, but not limited to, heating and ventilation ducts, doorways, corridors, windows, skylights and lighting, with polyethylene sheeting taped securely in place. If the contractor is using sealant materials to fill in small holes or cracks, the material shall have appropriate fire ratings.
- G. Floors (if required): Apply one or more layers of 6 mil (minimum) polyethylene plastic sheeting with joints overlapped 24 inches and taped securely. Plastic shall be carried up walls a minimum of 12 inches and secured.
- H. Walls (if required): Apply one or more layers of 4 mil (minimum) polyethylene plastic sheeting with joints lapped 24 inches and taped securely. Plastic shall be lapped over floor coverings and taped securely.
- I. Floors and walls shall be installed in such a manner that they may be removed independently of the critical barriers.
- J. Entrances and exits from the work area will have triple barriers of polyethelene plastic sheeting so that the work area is always closed off by one barrier when workers enter or exit.
- K. No water may be left standing on the floor at the end of the work day.
- L. Floor surfaces, walls, finishes or coverings, etc., that in the contractor's opinion will likely be damaged by water or that may become contaminated with asbestos, shall have additional protective preparation as the contractor sees appropriate, at his cost, to protect

the original condition of the surfaces.

- M. Any costs associated with physical damage caused by water or securing polyethylene sheeting to areas inside or outside the abatement area shall be the contractor's responsibility.
- N. The contractor shall establish and mark emergency and fire exits from the work area. Emergency procedures shall have priority over established decontamination entry and exit procedures. Audible and visible fire and emergency evacuation alarms shall be installed so as to be heard and seen throughout the entire work area.
- O. Integrity of these seals shall be regularly checked and maintained by the contractor.
- P. After work area preparation, the contractor shall notify the designer verbally with written follow-up that he is ready for a prework inspection.

SECTION 02560

WORKER PROTECTION

1.01 GENERAL

- A. Provide worker protection as required by OSHA, state and local standards applicable to the work. Contractor is solely responsible for enforcing worker protection requirements at least equal to those specified in this Section.
- B. Each time the work area is entered the contractor shall require all persons to remove all street clothes in the changing room of the personnel decontamination unit and put on new disposable coverall, new head cover, and a clean respirator. Proceed through shower room to equipment room and put on work boots.
- C. Workers shall not eat, drink, smoke, chew gum or chew tobacco in the work area, the equipment room, the load out area, or the clean room.

1.02 WORKER TRAINING

- A. Train all workers in accordance with 29 CFR 1926 and North Carolina state regulations regarding the dangers inherent in handling asbestos, breathing asbestos dust, proper work procedures and personal and area protective measures.

1.03 MEDICAL EXAMINATIONS

- A. Provide medical examinations for all workers. Examination shall as a minimum meet OSHA requirements as set forth in 29 CFR 1926 and N.C. Workmen's Compensation Act Dusty Trades Examination Record (DEHNR Form 2796).

1.04 PROTECTIVE CLOTHING

- A. Provide disposable full-body coveralls and disposable head covers, and require that they be worn by all workers in the work area. Provide a sufficient number for all required changes, for all workers in the work area.
- B. Boots: Provide work boots with non-skid soles and, where required by OSHA, foot protection for all workers.
- C. Gloves: Provide work gloves to all workers and require that they be worn at the appropriate times. Do not remove gloves from work area. Dispose of work gloves as asbestos-contaminated waste at the completion of the project.

1.05 ADDITIONAL PROTECTIVE EQUIPMENT

- A. Type C respirators, disposable coveralls, head covers and footwear covers shall be provided by the contractor for the owner, the designer, Industrial hygiene firm and other authorized representatives who may inspect the job site.

1.06 DECONTAMINATION PROCEDURES

- A. Require that all workers use the following decontamination procedure as a minimum requirement whenever leaving the work area:
 - 1. Remove disposable coveralls, disposable head covers, and disposable footwear covers or boots in the equipment room.
 - 2. Still wearing respirators, proceed to showers. Showering is mandatory. Care must be taken to follow reasonable procedures in removing the respirator to avoid asbestos fibers while showering. The following procedure is required as a minimum:
 - a. Thoroughly wet body including hair and face.
 - b. With respirator still in place thoroughly wash body, hair, respirator face piece, and all exterior parts of the respirator.
 - c. Take a deep breath, hold it and/or exhale slowly, completely wet hair, face and respirator. While still holding breath, remove respirator and hold it away from face before starting to breathe.
 - d. Carefully wash face piece of respirator inside and out.
 - e. Shower completely with soap and water; rinse thoroughly.
 - f. Rinse shower room walls and floor prior to exit.
 - g. Proceed from shower to changing (clean) room and change into street clothes or new disposable work items.
 - 3. After showering, each employee shall inspect, clean and repair his respirator as needed. The respirator shall be dried, placed in a suitable storage bag and properly stored.

SECTION 02562

RESPIRATORY PROTECTION

1.01 DESCRIPTION OF WORK

- A. Instruct and train each worker involved in asbestos abatement in proper respirator use and require that each worker always wear a respirator, properly fitted on the face, in the work area from the start of any operation which may cause airborne asbestos fibers until the work area is completely decontaminated. Use respiratory protection appropriate for the fiber level encountered in the workplace or as required for other toxic or oxygen-deficient situations encountered.

1.02 GENERAL

- A. Provide workers with personally issued and marked respiratory equipment approved by NIOSH and MSHA and suitable for the asbestos exposure level in the work areas according to OSHA Standard 29 CFR 1926.1101 and other possible contaminants employees might be exposed to during the project.
- B. Provide respiratory protection from the time the first operation involved in the project requires contact with asbestos-containing materials (including construction of decontamination units, construction of airtight barriers/barricades, and placing of plastic sheeting on walls) until acceptance of final air clearance test results by the industrial hygiene firm.
- C. The minimum respiratory protection for the project during gross removal shall be powered air purifying respirators (PAPR).
- D. During gross removal of sprayed-on asbestos fireproofing, the contractor shall stay in Type-C supplied air respirators as described in 29 CFR 1926.1101 until all gross asbestos materials have been removed.
- E. The designer may, under certain circumstances, allow the contractor to use a half-face respirator with replaceable HEPA filters during the final cleaning phase. However, the eight-hour TWA air sampling data must document the exposure level, and the SAM must write a letter to the designer allowing the contractor to reduce respiratory protection.
- F. Respirator fit testing shall be performed as a minimum at the beginning of the project, at any change in respiratory protection equipment, and at any time during the project if requested by the employee or SAM. Fit testing is to be performed by one of the methods listed in the 29 CFR 1926.1101, Appendix C.
- G. If supplied air respirators are used, the contractor shall provide a minimum of Grade "D" breathing air as set forth in the Compressed Gas Association's "Commodity Specifications for Air," G-7.1. The contractor shall test for Grade "D" breathing air initially and daily thereafter. Daily testing is not needed if the contractor has an air purification system which has CO and organic purging capabilities as well as a continuous CO monitor and alarm calibrated at 10 ppm. The system must be calibrated at least once a week or when it is moved.

- H. Provide emergency backup air supply, egress SCBA or egress HEPA filters for each worker in work area at all times when Type-C (supplied air) respirators are required. Breathing air system shall provide one hour of reserve air, calculated for maximum crew size for emergency evacuation.
- I. Where Type C respirators are utilized, the contractor is required to have an employee in the vicinity of the source of air. The contractor shall take into account the location of the fresh air intake to ensure no pollutant source is in the vicinity. The audible alarm shall be located where the employees inside and outside containment can hear the alarm.
- J. Do not allow the use of single-use, disposable or quarter-face respirators for any purpose.
- K. The contractor may submit a new exposure assessment (as per 29 CFR 1926.1101) to the SAM with a request to downgrade to less protective respirators. The SAM will make a recommendation to the designer, who will issue a decision in writing to the contractor approving or denying his request. If the contractor disagrees with the decision, then the representative air sampling data may be reviewed by the HHCB for a final decision.

SECTION 02563

DECONTAMINATION UNITS

1.01 DESCRIPTION OF WORK

- A. Provide separate personnel and equipment/loadout decontamination facilities. Require that the personnel decontamination unit be the only means of ingress and egress for the work area. Require that all materials exit the work area through the equipment/loadout decontamination unit. Contractor shall comply with 29 CFR 1926.1101, specifically paragraph (j) Hygiene facilities and practices for employees.

1.02 GENERAL

Provide separate personnel decontamination units and equipment/loadout decontamination units when practical.

- A. Personnel Decontamination Unit
 1. Provide a Personnel Decontamination Unit consisting of a serial arrangement of connected rooms or spaces, changing room, shower room, equipment room. Each shall be separated by a minimum of three curtain doorways. Require all persons without exception to pass through this decontamination unit for entry into and exiting from the work area for any purpose. Do not allow parallel routes for entry or exit. Do not remove equipment or materials through Personnel Decontamination Unit.
 2. Provide temporary lighting within decontamination units as necessary to reach an adequate lighting level.
 3. Maintain floor of changing room dry and clean at all times. Do not allow the overflow water from the shower to escape the shower room.
 4. Damp wipe all surfaces twice after each shift change with a disinfectant solution.
 5. Provide hot and cold water, drainage and standard fixtures including an elevated shower head as necessary for a complete and operable shower. A water hose and bucket is not an acceptable shower.
 6. Arrange water shut off and drain pump operation controls so that a single individual can shower without assistance from either inside or outside of the work area.
 7. Pump shower waste water to drain. Provide 20 micron and 5 micron waste water filters in line to drain. Change filters daily or more often if necessary.
 8. If the decontamination area is located within an area containing friable asbestos on overhead ceilings, ducts, piping, etc., provide the area with a minimum 3/8 inch plywood "ceiling" with two layers of polyethylene sheeting covering the top of the "ceiling."

9. Visual Barrier: Where the decontamination area is immediately adjacent to and within view of occupied areas, provide a visual barrier of opaque plastic sheeting so that worker privacy is maintained and work procedures are not visible to building occupants. Where the area adjacent to the decontamination area is accessible to the public, construct a solid barrier on the public side of the sheeting to protect the sheeting. Construct barrier with wood or metal studs, max. 16 inches on center, covered with minimum 3/8 inch plywood.

B. Equipment Decontamination Units:

1. Provide an equipment decontamination unit consisting of a serial arrangement of rooms, clean room, holding area, and washroom, each room separated by a minimum of three curtain doorways, for removal of equipment and material from work area. Do not allow personnel to enter or exit work area through equipment decontamination unit.
2. Washroom: Provide washroom for cleaning of bagged or drummed asbestos-containing waste materials passed from the work area.
3. Holding Area: Provide holding area as a drop location for sealed drums and bagged asbestos-containing materials passed from the washroom.
4. Clean Room: Provide clean room to isolate the holding area from the building exterior or occupied areas.
5. Equipment or Material: Obtain all equipment or material from the work area through the equipment decontamination unit according to the following procedure:
 - a. When passing contaminated equipment, sealed plastic bags, drums or containers into the washroom, close all doorways of the equipment decontamination unit, other than the doorway between the work area and the washroom. Keep all outside personnel clear of the equipment decontamination unit.
 - b. Once inside the washroom, wet-clean the bags and/or equipment.
 - c. When cleaning is complete, insert bagged material into a clean bag/drum during the pass between the washroom and holding area. Close all doorways except the doorway between the washroom and holding area.
 - d. Workers from the building exterior enter the clean room then the holding area to remove decontaminated equipment and/or containers for disposal. Require these workers to wear full protective clothing and respiratory protection as described in Section 01562.

C. Use of Elevator:

1. If the elevator is used for transport of material, it shall be prepared with two layers of 6 mil polyethylene plastic sheeting that meets the approval of the designer. The elevator shall be cleaned daily after each use.

D. Decontamination Unit Contamination:

1. If the air quality in the decontamination unit exceeds 0.01 fibers per cc analyzed by PCM or 70 structures per mm squared analyzed by TEM or its integrity is diminished through use as determined by the designer or industrial hygiene firm, no employee shall use the unit until corrective steps are taken and approved by the designer and industrial hygiene firm.

SECTION 02711

PROJECT DECONTAMINATION

1.01 GENERAL

- A. Carry out a first cleaning of all surfaces of the work area including plastic sheeting, tools, scaffolding and/or staging by use of damp-cleaning and mopping and/or a high efficiency particulate air (HEPA) filter vacuum until there is no visible debris from removed materials or residue on plastic sheeting or other surfaces. Do not perform dry-dusting or dry-sweeping.
- B. Equipment shall be cleaned and all contaminated materials removed before removing polyethylene from the walls and floors.
- C. The contractor shall replace all prefilters and clean the inside and outside of the HEPA exhaust units.
- D. After polyethylene sheets have been removed from walls and floors, but are still remaining on all windows, doors and the critical components, the contractor shall clean all surfaces in the work area, including ducts, electrical conduits, steel beams, roof deck, etc., with amended water and/or HEPA-filtered vacuum.
- E. After cleaning the work area, the contractor shall allow the area to thoroughly dry and then wet-clean and/or HEPA vacuum all surfaces in work area again.
- F. At the completion of the cleaning operation, the contractor's supervisor shall perform a complete visual inspection of the work area to ensure that the work area is dust- and fiber-free. If the supervisor believes he is ready for a final project decontamination inspection, he shall notify the designer.
- G. The designer shall contact the industrial hygiene firm and advise the firm of the final project decontamination inspection requested by the contractor.
- H. Final project decontamination inspection includes the visual inspection and air monitoring clearance.
- I. Visual inspection for acceptance shall be performed after all areas are dry.
- J. The industrial hygiene firm shall perform the final visual inspection and conduct the final air clearance. Any discrepancies found shall be documented in the form of a punch list.
- K. Final air sampling shall not commence until the visual inspection is completed and passed.
- L. If the industrial hygiene firm finds that the work area has not been adequately decontaminated, cleaning and/or air monitoring shall be repeated at the contractor's expense, including additional industrial hygiene fees, until the work area is in compliance.

- M. After the work area is found to be in compliance, all entrances and exits shall be unsealed and the plastic sheeting, tape and any other trash and debris shall be disposed of in sealable plastic bags (6 mil minimum) and disposed of as outlined in Section 02084.
- N. All HEPA unit intakes and exhausts shall be wrapped with six mil polyethylene before leaving the work area.
- O. After the industrial hygiene firm has approved the final project decontamination and the contractor has completed the tear down for occupancy by others, the designer shall perform the project final inspection as outlined in the general conditions.
- P. Any residual asbestos that may be present after removing critical barriers, that in the designer's judgment should have been cleaned during the precleaning phase prior to installing critical barriers, shall be cleaned and cleared at the contractor's expense.
- Q. There shall be appropriate seals totally enclosing the inspection area to keep it separate from clean areas or other areas where abatement is or will be in progress. Once an area has been accepted and passed air tests, loss of the critical barrier integrity or escape of asbestos into an already clean area shall void previous acceptance and tests. Additional visual and final air clearance sampling shall be required at the contractor's expense.

SECTION 02714

WORK AREA CLEARANCE

1.01 GENERAL

- A. Notification and scheduling of the final inspection during the project is the responsibility of the contractor.

1.02 FINAL CLEARANCE TESTING

- A. After the second cleaning operation and after the area is completely dry, the following procedure test shall be performed:
 - 1. A final visual inspection shall be conducted by the industrial hygiene firm. The inspection shall be conducted following the guidelines set forth in the American Society for Testing and Materials, Standard Practices for Visual Inspection of Asbestos Abatement Projects, Designation: E1368.90. If the work area is found visibly clean, air samples will be collected by the industrial hygiene firm.
 - 2. During the air testing, the accredited air monitor shall cause disruptive air currents as described in the EPA-AHERA regulations (40 CFR Part 763, Subpart E, Appendix A).
 - 3. If samples are to be analyzed using PCM (minimum of five samples using NIOSH 7400 method), then the maximum flow rate is 12 liters per minute, with a minimum sample size of 2000 liters for each sample. Clearance criteria shall be less than 0.01 F/cc for all samples analyzed.
 - 4. If samples are to be analyzed using TEM, the Mandatory Transmission Electron Microscopy Method described in 40 CFR Part 763, Subpart E, Appendix F shall be used. Clearance criteria shall be an arithmetic mean less than or equal to 70 structures per square millimeter or a z-test less than or equal to 1.65.
 - 5. Final clearance criteria shall be in accordance with AHMB Program Rules. **In this section the designer shall clearly define which areas will be cleared by PCM or TEM.**
 - 6. The industrial hygiene firm shall immediately report the final air sampling clearance results to the designer.
 - 7. The use of the negative pressure system may be discontinued after the industrial hygiene firm instructs the contractor that he has passed the final project decontamination inspection.

SECTION 03080

ASBESTOS REMOVAL

1.01 GENERAL

- A. Prior to starting asbestos removal, the contractor's equipment, work area and decontamination units will be inspected and approved by the designer.
- B. All loose asbestos material removed in the work area shall be adequately wet, bagged, sealed and labeled properly before personnel breaks or end of shift.
- C. All plastic sheeting, tape, cleaning material, clothing and all other disposable material or items used in the work area shall be packed into sealable plastic bags (6 mil minimum) and treated as contaminated material.
- D. All material shall be double-bagged.
- E. All excess water (except shower water) shall be combined with removed material or other absorptive material and properly disposed of as per EPA regulations. Contractor shall not place water in storm drains, onto lawns, or into ditches, creeks, streams, rivers or oceans.

1.02. SCOPE OF WORK

{In this section the designer shall completely describe in detail the material to be removed and how to remove it. All aspects of the work must be described such as demolition of walls to get to the material. Asbestos percentages of material must be included. Clear, detailed plans of site location and material to be removed are required. All areas of material location must be accessible at the time of the prebid. If this is not possible the designer shall give an accurate estimate of the quantity of material that is involved.}

1.03 ACM PRODUCTS TO BE REMOVED

- A. Roofing Materials
 - 1. The contractor will meet the requirements listed under the OSHA standard 29 CFR 1926.1101 for roofing.
 - 2. Contact the HHCB concerning the need for permit, fees and accredited roofing workers and supervisors when removing regulated roofing material.
 - 3. The roofing contractor shall use the state's Waste Shipment Record for a waste manifest and shall include a copy of the manifest to the designer before final payment.
 - 4. Transport materials to a permitted landfill approved to accept asbestos, in a covered truck. Materials will be disposed of as asbestos-containing construction waste. Landfills must be notified in advance when such materials are to be disposed.

B. Asbestos Floor Tile and Mastic

1. The designer may elect to design the removal using non-traditional, non-regulated methods such as the infrared heat machine, etc. If these methods are used the designer shall require the contractor to provide documentation showing that his employees have been thoroughly trained in how to use the equipment and provide a copy of personnel air monitoring data from previous jobs to document fiber exposure levels.
2. When removing asbestos-containing mastic from the floor surface, the contractor shall use a product that meets the following criteria:
 - a. The product shall not create a hazardous waste as a byproduct.
 - b. The product shall be "low to no odor."
 - c. The product shall not contain any carcinogenic or chlorinated hydrocarbons.
3. When the contractor is using a mastic remover, he shall protect the walls and any adjacent areas. He shall be responsible for any damage that occurs and for the complete repair of the damage.
4. When the contractor is collecting the asbestos solution, the contractor shall add cat litter, oil-sorb or equivalent so that no free standing liquid will be left in the asbestos bag.
5. After the contractor completes the asbestos mastic removal, the contractor shall use a cleaning solution to neutralize the mastic remover and mop and rinse the floor so that no residue of the product may be left on the floor surface. This cleanser shall be compatible with any new adhesive to be installed.
6. Potential health problems associated with the mastic remover in buildings that are occupied by the general public shall be addressed. A negative pressure enclosure with a specified number of air changes per hour or some other means may be needed because of vapor concentrations or odor considerations.

C. Contaminated Crawl Spaces

1. The designer's goal is to "render safe" the contaminated crawl space from obvious asbestos and contaminated debris. It may not be possible to totally remove the asbestos hazard from the crawl space.
2. The designer will clearly state how to remove the asbestos hazard from the crawl space and to what degree.

D. Insulation on Hot Water and Live Steam Lines

1. The contractor shall not conduct asbestos removal on any hot water pipe that exceeds 130 degrees Fahrenheit or which exceeds the manufacturer's requirements for heat resistant polyethylene or glove bags.

2. The contractor shall not conduct asbestos removal on live steam lines.
3. The owner shall maintain the heat on hot water pipes below 130 degrees Fahrenheit until the contractor completes the project.
4. The owner shall turn off and purge all live steam lines prior to the contractor's arrival to start preparation.
5. In either event of D-3 or D-4, the owner shall provide a letter documenting that the temperature in the hot water pipes has been reduced below 130 degrees Fahrenheit and/or that the live steam lines have been turned off and purged. A copy of this letter shall go to the designer and the contractor.

E. TSI Glovebag/Glovebox

1. The negative pressure glovebag/glovebox system shall follow 29 CFR 1926.1101.

SECTION 03084

DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

1.01 GENERAL

- A. All asbestos materials and miscellaneous contaminated debris shall be properly sealed and protected, and the loadout vehicle/dumpster shall be locked, while located on the facility site and then transported to a predesignated disposal site in accordance with 40 CFR 61.150 and DOT 49 CFR Parts 100-399.
- B. An enclosed vehicle will be used to haul waste material to the disposal site. No rental vehicles or trailers shall be used. Vehicle selection, vehicle covers and work practices shall assure that no asbestos becomes airborne during the loading, transport and unloading activity, and that material is placed in the waste site without breaking any seals.
- C. Waste disposal polyethylene bags (6 mil) and containers, non-porous (steel/plastic) drums or equivalent, with labels, appropriate for storing asbestos waste during transportation to the disposal site shall be used. In addition to the OSHA labeling requirements, all containers shall be labeled with the name of the waste generator and the location at which the waste was generated.
- D. The contractor shall transport the containers and bags of waste material to the approved waste disposal site. The sealed plastic bags shall be placed into the burial site unless the bags have been broken or damaged. Upon the landfill's approval damaged bags shall be left in the non-porous containers and the entire contaminated package shall be buried. Uncontaminated containers may be reused.
- E. Workers loading and unloading the asbestos will wear respirators and disposable clothing when handling material. Asbestos warning signs shall be posted during loading and unloading of asbestos waste.
- F. The contractor shall use the HHCB's Waste Shipment Record for disposal records as per 40 CFR 61.150 and distribute a copy of all waste shipment records to the designer after the completion of the project.

APPENDIX A

PREWORK ASBESTOS INSPECTION CHECKLIST

Name of State Facility: _____

Project Name: _____

Project ID Number: _____

Date of Inspection: _____ Pass: _____ Fail: _____

A. DOCUMENTS	YES	NO
1) Asbestos Removal Permit/NESHAP Notification	_____	_____
2) Accreditation Documents for Workers & Supervisors	_____	_____
3) Asbestos Plans and Specifications	_____	_____
4) Air Monitoring Data	_____	_____
5) Waste Shipment Records	_____	_____
6) Sign-in Sheets and Bound Book for Comments	_____	_____
7) Calibration Record for Grade "D" Air	_____	_____
8) Items listed in Section 01043 of Specification	_____	_____
B. PPE SUPPLIES		
1) Tyvek Clothing	_____	_____
2) Rubber Boots	_____	_____
3) Respirators with HEPA Filters	_____	_____
C. CLEAN ROOM		
1) Entry Curtains	_____	_____
2) Emergency Phone Numbers Posted	_____	_____
3) First Aid Kit	_____	_____
4) Asbestos Signs	_____	_____
5) Decontamination Procedures Posted	_____	_____
6) Fire Extinguisher	_____	_____
D. SHOWER ROOM		
1) Polyethylene Curtains	_____	_____
2) Hot/Cold Water & Operational	_____	_____
3) Soap & Towels	_____	_____
4) Waste Water Filter Pump Operational	_____	_____
5) Extra Five Micron Size Filters	_____	_____
6) Filtered Waste Water to Sanitary Sewer	_____	_____

E. WORK AREA	YES	NO
1) Removable Items Out of Area	_____	_____
2) Non-removable Items Protected	_____	_____
3) Critical Barriers Installed	_____	_____
4) Polyethylene Curtains	_____	_____
5) Polyethylene on Walls/Floors as Specified	_____	_____
6) HVAC off	_____	_____
7) Air Filtration Devices in Place and Operational	_____	_____
8) Air Exhausted to Outside	_____	_____
9) Electricity Locked and Tagged Out	_____	_____
10) Temporary Power Installed with GFCI	_____	_____
11) Fire Extinguishers	_____	_____
12) Emergency and Fire Exits Marked	_____	_____
13) Audible Alarms Operational	_____	_____
14) Toilet Available	_____	_____

F. EQUIPMENT		
1) Safety Equipment	_____	_____
2) HEPA Vacuums	_____	_____
3) Waste Disposal Bags	_____	_____
4) Airless Sprayer with Water Source	_____	_____
5) Cleaning Equipment	_____	_____
6) Glove Bags	_____	_____
7) Emergency Power Generator (if required)	_____	_____
8) Temporary Lighting	_____	_____

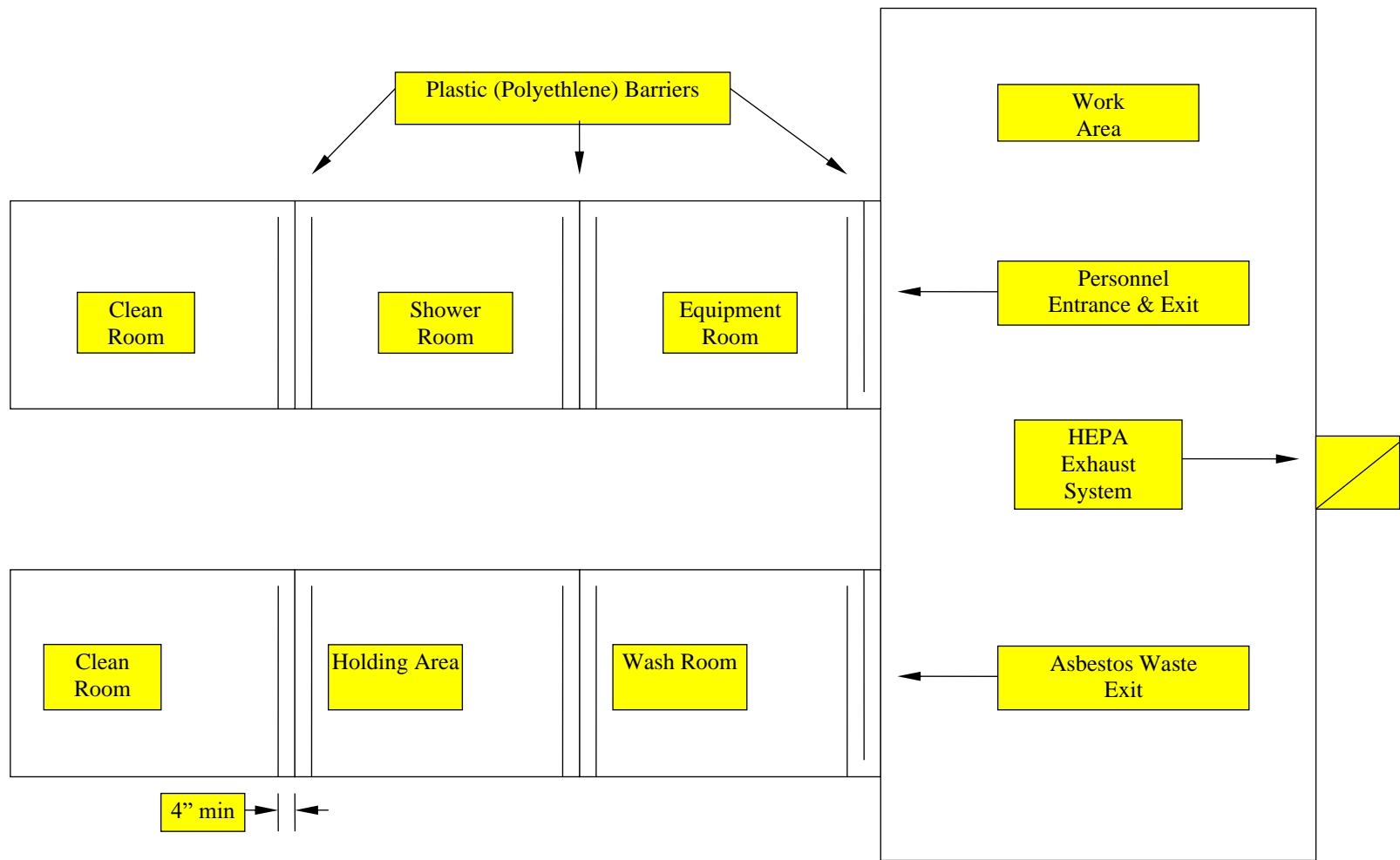
G. OTHER		
1) _____	_____	_____
2) _____	_____	_____
3) _____	_____	_____
4) _____	_____	_____

Asbestos Design Consultant

Date

Asbestos Contractor's Representative

Date



Decontamination Area Arrangement - Plan View

Drawn By: GAD	Date: 01/02/96	N.C. Department of Administration State Construction Office Raleigh, N.C. 27601
------------------	-------------------	---