

# PROJECT MANUAL

---

## **Randolph County Animal Shelter** **Addition and Renovations** Randleman, North Carolina

Randolph County

SMITH SINNETT ARCHITECTURE

PROJECT NO. 2015008

DATE: AUGUST 12, 2016

---

### **OWNER**

Randolph County  
725 McDowell Rd  
Asheboro, North Carolina 27205

### **ARCHITECT**

Smith Sinnett Architecture, P.A.  
4600 Lake Boone Trail, Suite 205  
Raleigh, North Carolina 27607

### **STRUCTURAL ENGINEER**

Stroud, Pence & Associates  
4904 Professional Ct., Suite 200  
Raleigh, North Carolina 27609

### **PLUMBING and MECHANICAL ENGINEER**

R. Craig Pritchard, PE  
212 Kirk Road  
Greensboro, North Carolina 27455

### **ELECTRICAL ENGINEER**

Dan Campbell Engineering, PA  
911 South Chapman Street  
Greensboro, North Carolina 27403

---



**SECTION 00 00 05 – CERTIFICATIONS**

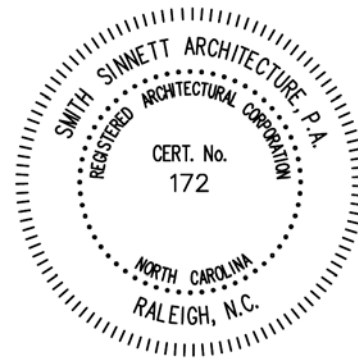
Randolph County Animal Shelter  
Addition and Renovations  
1370 County Land Rd.  
Randleman, North Carolina 27317

Randolph County

PROJECT NO. 2016003

**ARCHITECTURE FIRM**

Smith Sinnett Architecture, P.A.  
4600 Lake Boone Trail, Suite 205  
Raleigh, North Carolina 27607



**ARCHITECT – Robert Carmac**

Smith Sinnett Architecture, P.A.  
4600 Lake Boone Trail, Suite 205  
Raleigh, North Carolina 27607



**STRUCTURAL ENGINEER – Jeffrey Morrison, PE**

Stroud, Pence & Associates  
4904 Professional Ct., Suite 200  
Raleigh, North Carolina 27609





**SECTION 00 01 00 – ADVERTISEMENT FOR BIDS**

**ADVERTISEMENT FOR BIDS**

Sealed proposals will be received until **3:00 pm on Thursday September 8, 2016**, in **Meeting Room A** at the **Randolph County Office Building, 725 McDowell Rd., Asheboro, NC 27205** for the construction of the **Randolph County Animal Shelter Addition and Renovation**

at which time and place bids will be opened and read.

An Open Pre-Bid Meeting will be held at **10:00 am on Tuesday August 23, 2016** at the **Randolph County Animal Shelter at 1370 County Land Rd., Randleman, NC 27317**.

The meeting will identify preferred brand alternates and their performance standards that the owner will consider for approval on this project.

Plans and Specifications can be downloaded from Smith Sinnett Architecture by potential bidders, upon registration with Smith Sinnett Architecture by completing the Intent to Bid Form available at [www.smithsinnett.com](http://www.smithsinnett.com) on or after **August 15, 2016**.

The full hard copy of the plans and specifications can be purchased at the contractor's expense. Randolph County reserves the right to reject any or all bids and to waive informalities.

Signed: Lisa Garner, Purchasing Officer  
Randolph County

**END OF SECTION 00 01 00**



## NOTICE TO BIDDERS

Sealed proposals will be received by Randolph County in Asheboro NC, in Meeting Room A of the Randolph County Office Building, 725 McDowell Rd., Asheboro NC 27205 to 3:00 pm Thursday September 8, 2016 and immediately thereafter publicly opened and read for the furnishing of labor, material and equipment entering into the construction of:

*Randolph County Animal Shelter  
Addition and Renovations  
Randolph County  
1370 County Land Rd.  
Randleman, North Carolina 27317*

*This project consists of a 3,500sf building addition and selected renovations to an existing building. The addition consists of a concrete slab, CMU, wood studs, wood trusses, brick veneer, siding, shingle roofing, asphalt paving, concrete sidewalks, resinous flooring, rigid insulation, structural steel, metal and wood doors, door hardware, aluminum storefront, acoustical tile ceilings, gypsum board, painting, HVAC, electrical, plumbing, and other associated work. The project includes all other work as shown, indicated or reasonably implied on the drawings and/or specifications for a complete, first class job.*

Bids will be received for Single Prime. All proposals shall be lump sum.

### Pre-Bid Meeting

An open pre-bid meeting will be held for all interested bidders on Tuesday August 23, 2016 --- 10:00am --- Randolph County Animal Shelter, 1370 County Land Rd., Randleman, NC 27317. The meeting will address project specific questions, issues, bidding procedures and bid forms.

*The meeting is also to identify preferred brand alternates and their performance standards that the owner will consider for approval on this project.*

*In accordance with General Statute GS 133-3, Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this section must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public.*

*In accordance with GS133-3 and SCO procedures the following preferred brand items are being considered as Alternates by the owner for this project:*

Alternate 1: Owner Preferred Manufacturers

1. Door Hardware: Locks and Latches: Manufacturer – US Locks

*Justification of any approvals will be made available to the public in writing no later than seven (7) days prior to bid date.*

Complete plans, specifications and contract documents will be open for inspection in the offices of Owner and Smith Sinnett Architecture, 4600 Lake Boone Trail, Suite 205, Raleigh NC 27607.

Plans and Specifications can be downloaded from Smith Sinnett Architecture by potential bidders, upon registration with Smith Sinnett by completing the Intent to Bid Form available at [www.smithsinnett.com](http://www.smithsinnett.com) after August 15, 2016. The full hard copy of the plans and specifications can be purchased at the contractor's expense.

**NOTE:** The bidder shall include with the bid proposal the form Identification of Minority Business Participation identifying the minority business participation it will use on the project and shall include either Affidavit A or

*Affidavit B* as applicable. Forms and instructions are included within the Proposal Form in the bid documents. Failure to complete these forms is grounds for rejection of the bid. (GS143-128.2c Effective 1/1/2002.)

All contractors are hereby notified that they must have proper license as required under the state laws governing their respective trades.

General contractors are notified that Chapter 87, Article 1, General Statutes of North Carolina, will be observed in receiving and awarding general contracts. General contractors submitting bids on this project must have license classification for "Unlimited Building" or "Unclassified".

NOTE--SINGLE PRIME CONTRACTS: Under GS 87-1, a contractor that superintends or manages construction of any building, highway, public utility, grading, structure or improvement shall be deemed a "general contractor" and shall be so licensed. Therefore a single prime project that involves other trades will require the single prime contractor to hold a proper General Contractors license. **EXCEPT:** On public buildings being bid single prime, where the total value of the general construction does not exceed 25% of the total construction value, contractors under GS87- Arts 2 and 4 (Plumbing, Mechanical & Electrical) may bid and contract directly with the Owner as the SINGLE PRIME CONTRACTOR and may subcontract to other properly licensed trades. GS87-1.1- Rules .0210

Each proposal shall be accompanied by a cash deposit or a certified check drawn on some bank or trust company, insured by the Federal Deposit Insurance Corporation, of an amount equal to not less than five percent (5%) of the proposal, or in lieu thereof a bidder may offer a bid bond of five percent (5%) of the bid executed by a surety company licensed under the laws of North Carolina to execute the contract in accordance with the bid bond. Said deposit shall be retained by the owner as liquidated damages in event of failure of the successful bidder to execute the contract within ten days after the award or to give satisfactory surety as required by law.

A performance bond and a payment bond will be required for one hundred percent (100%) of the contract price.

Payment will be made based on ninety-five percent (95%) of monthly estimates and final payment made upon completion and acceptance of work.

No bid may be withdrawn after the scheduled closing time for the receipt of bids for a period of 60 days.

The owner reserves the right to reject any or all bids and to waive informalities.

Vendors submitting bids shall be screened to determine if the Vendor has any delinquent financial obligations (taxes, fees, etc.) to Randolph County Government and to determine if the Vendor is listed as debarred by state or federal government. A finding of debarment or delinquency shall disqualify the Vendor from consideration.

Randolph County may choose to use a VISA® Purchasing Card for invoice payments in place of a check to pay for purchases from this solicitation. Unless exception is noted in the bid response, the bidder by submitting a bid, agrees to accept the VISA® purchasing card as an acceptable form of payment and may not add additional service fees/handling charges to purchases made with the VISA® purchasing card.

All questions and inquires shall be submitted to the Designer at the contact listed below.



**Randolph County Animal Shelter**  
Addition and Renovation

Smith Sinnett / 2015008  
Randolph County

Designer:

Robert Carmac, AIA

Smith Sinnett Architecture

(Name)

4600 Lake Boone Trail, Suite 205

Raleigh, NC 27607

(Address)

(919) 781-8582

(Phone)

rcarmac@smithsinnett.com

(Email)

Owner:

Lisa Garner, Purchasing Officer

Randolph County

(Agency/Institution)

725 McDowell Rd.

Asheboro, NC 27205

(Address)

(336) 318-6304

(Phone)

lisa.garner@randolphcountync.gov

(Email)



**SECTION 00 01 10 - TABLE OF CONTENTS**

**PROJECT:** Randolph County Animal Shelter  
Additions and Renovations  
Randolph County  
1370 County Land Road  
Randleman, NC 27317

**DIVISION 00 INSTRUCTIONS AND CONDITIONS**

000005	Certifications	1 thru 2
000100	Advertisement for Bids	1 thru 2
001005	Notice to Bidders	1 thru 4
000110	Table of Contents	1 thru 4
002000	Instructions to Bidders (A701-1997)	1 thru 6
004200	Proposal Form	1 thru 6
004310	E-Verify Affidavit	1 thru 2
004313	Bid Bond (A310-2010)	1 thru 2
004330	Minority Certification	1 thru 2
004335	Minority Business Outreach Plan	1 thru 8
004340	Minority Business Participation Forms	1 thru 10
007200	General Conditions of the Contract for Construction	1 thru 52
007210	Appendix A to General Conditions of the Contract for Construction	1 thru 6
007300	Supplementary General Conditions	1 thru 2
008000	Contract for Construction	1 thru 10
009010	Special Conditions	1 thru 2

**DIVISION 01 GENERAL REQUIREMENTS**

011000	Summary	1 thru 4
012100	Allowances	1 thru 4
012200	Unit Prices	1 thru 2
012300	Alternates	1 thru 2
012500	Substitution Procedures	1 thru 4
012600	Contract Modification Procedures	1 thru 4
012900	Payment Procedures	1 thru 4
013100	Project Management and Coordination	1 thru 10
013200	Construction Progress Documentation	1 thru 8
013300	Submittal Procedures	1 thru 10
014000	Quality Requirements	1 thru 6
014200	References	1 thru 4
015000	Temporary Facilities and Controls	1 thru 6
016000	Product Requirements	1 thru 6
017123	Field Engineering	1 thru 2
017329	Cutting and Patching	1 thru 4
017700	Closeout Procedures	1 thru 4
017823	Operation and Maintenance Data	1 thru 6
017836	Warranties	1 thru 2
017839	Project Record Documents	1 thru 4
017900	Demonstration and Training	1 thru 4

**DIVISION 02 EXISTING CONDITIONS**

023200	Geotechnical Investigations	1 thru 2
	A. Report of Detailed Subsurface Investigation	1 thru 34
024119	Selective Structural Demolition	1 thru 6

**DIVISION 03 CONCRETE**

033000 Cast in Place Concrete 1 thru 14

**DIVISION 04 MASONRY**

042000 Unit Masonry 1 thru 18

**DIVISION 05 METALS**

051200 Structural Steel Framing 1 thru 6

055000 Metal Fabrications 1 thru 6

055213 Pipe and Tube Railings 1 thru 8

**DIVISION 06 WOOD, PLASTICS, AND COMPOSITES**

061000 Rough Carpentry 1 thru 6

061600 Sheathing 1 thru 6

061753 Shop-Fabricated Wood Trusses 1 thru 6

061800 Glued-Laminated Construction 1 thru 4

064023 Interior Architectural Woodwork 1 thru 8

**DIVISION 07 THERMAL AND MOISTURE PROTECTION**

071100 Bituminous Dampproofing 1 thru 4

071300 Composite Sheet Waterproofing 1 thru 4

071900 Water Repellents 1 thru 4

072100 Thermal Insulation 1 thru 6

073113 Asphalt Shingles 1 thru 8

074100 Metal Roof System 1 thru 8

074113 Metal Soffit 1 thru 6

074646 Fiber Cement Siding 1 thru 6

076200 Sheet Metal Flashing and Trim 1 thru 6

077200 Roof Accessories 1 thru 4

079200 Joint Sealants 1 thru 6

079500 Expansion Control 1 thru 2

**DIVISION 08 OPENINGS**

081113 Hollow Metal Doors and Frames 1 thru 10

081416 Flush Wood Doors 1 thru 6

084313 Aluminum Framed Entrances and Storefronts 1 thru 10

087100 Door Hardware 1 thru 16

088000 Glazing 1 thru 10

**DIVISION 09 FINISHES**

092900 Gypsum Board 1 thru 10

095123 Acoustical Tile Ceiling 1 thru 8

098000 Special Coatings 1 thru 8

099100 Painting 1 thru 12

**DIVISION 10 SPECIALTIES**

101400 Signage 1 thru 4

102800 Toilet and Bath Accessories 1 thru 4

104413 Fire Extinguisher Cabinets 1 thru 4

**DIVISION 12 FURNISHINGS**

122113 Horizontal Louver Blinds 1 thru 6

**DIVISION 22 PLUMBING**

REFER TO DRAWINGS

**DIVISION 23 HEATING, VENTILATING, AND AIR-CONDITIONING**  
REFER TO DRAWINGS

**DIVISION 26 ELECTRICAL**  
REFER TO DRAWINGS

**DIVISION 27 COMMUNICATIONS**  
REFER TO DRAWINGS

**DIVISION 31 EARTHWORK**

311000	Site Clearing	1 thru 4
312010	Earth Moving	1 thru 12
312500	Erosion and Sedimentation Controls	1 thru 2
313116	Termite Control	1 thru 4

**DIVISION 32 EXTERIOR IMPROVEMENTS**

321216	Asphalt Paving	1 thru 6
321313	Cement Concrete Paving	1 thru 10
321373	Pavement Joint Sealants	1 thru 4
323113	Chain Link Fences and Gates	1 thru 4
329000	Planting	1 thru 10

**DIVISION 33 UTILITIES**

331000	Water Utilities	1 thru 12
333000	Sanitary Sewerage Utilities	1 thru 6
334000	Storm Utility Drainage Piping	1 thru 8

**END OF SECTION 00 01 10**



**AIA**<sup>®</sup>

# Document A701<sup>™</sup> – 1997

## ***Instructions to Bidders***

### **for the following PROJECT:**

*(Name and location or address)*

Randolph County Animal Shelter  
Addition and Renovations  
1370 County Land Rd  
Randleman, North Carolina 27317

### **THE OWNER:**

*(Name, legal status and address)*

Randolph County  
725 McDowell Road  
Asheboro, North Carolina 27205

### **THE ARCHITECT:**

*(Name, legal status and address)*

Smith Sinnett Architecture, P.A.  
4600 Lake Boone Trail  
Suite 205  
Raleigh, North Carolina 27607

### **TABLE OF ARTICLES**

- |   |  |
|---|--|
| 1 | DEFINITIONS                                    |
| 2 | BIDDER'S REPRESENTATIONS                       |
| 3 | BIDDING DOCUMENTS                              |
| 4 | BIDDING PROCEDURES                             |
| 5 | CONSIDERATION OF BIDS                          |
| 6 | POST-BID INFORMATION                           |
| 7 | PERFORMANCE BOND AND PAYMENT BOND              |
| 8 | FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR |

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

## **ARTICLE 1 DEFINITIONS**

§ 1.1 Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms. The proposed Contract Documents consist of the form of Agreement between the Owner and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, AIA Document A201, or in other Contract Documents are applicable to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 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.

§ 1.6 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.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services or a portion of the Work as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.

## **ARTICLE 2 BIDDER'S REPRESENTATIONS**

§ 2.1 The Bidder by making a Bid represents that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

§ 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

§ 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

## **ARTICLE 3 BIDDING DOCUMENTS**

### **§ 3.1 COPIES**

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bidding Documents and the Bidder's deposit will be refunded.

§ 3.1.2 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the Advertisement or Invitation to Bid, or in supplementary instructions to bidders.

§ 3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

§ 3.1.4 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

### § 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Architect at least seven days prior to the date for receipt of Bids.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

### § 3.3 SUBSTITUTIONS

§ 3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ten days prior to the date for receipt of Bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

§ 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

### § 3.4 ADDENDA

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents.

§ 3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.



## ARTICLE 4 BIDDING PROCEDURES

### § 4.1 PREPARATION OF BIDS

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

§ 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change."

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

### § 4.2 BID SECURITY

§ 4.2.1 Each Bid shall be accompanied by a bid security in the form and amount required if so stipulated in the Instructions to Bidders. The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. The amount of the bid security shall not be forfeited to the Owner in the event the Owner fails to comply with Section 6.2.

§ 4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, unless otherwise provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

§ 4.2.3 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.

### § 4.3 SUBMISSION OF BIDS

§ 4.3.1 The County is requiring the use of a 2 envelope system for all bids. The first envelop should include the "Bid Guarantee" (copy of the bid bond), marked as such, and attached to the sealed envelope containing the bidder's proposal. The second bid envelope should be sealed, marked as "BID PROPOSAL" with the following information listed on the outside of the envelope:

- i. Bidder's Name and Address
- ii. North Carolina Contractor's License Number
- iii. Name of Project

§ 4.3.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

#### **§ 4.4 MODIFICATION OR WITHDRAWAL OF BID**

**§ 4.4.1** A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

**§ 4.4.2** Prior to the time and date designated for receipt of Bids, a 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. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.

**§ 4.4.3** Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

**§ 4.4.4** Bid security, if required, shall be in an amount sufficient for the Bid as resubmitted.

#### **ARTICLE 5 CONSIDERATION OF BIDS**

##### **§ 5.1 OPENING OF BIDS**

At the discretion of the Owner, if stipulated in the Advertisement or Invitation to Bid, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

##### **§ 5.2 REJECTION OF BIDS**

The Owner shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

##### **§ 5.3 ACCEPTANCE OF BID (AWARD)**

**§ 5.3.1** It is the intent of the Owner to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

**§ 5.3.2** The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.

#### **ARTICLE 6 POST-BID INFORMATION**

##### **§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT**

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

##### **§ 6.2 OWNER'S FINANCIAL CAPABILITY**

The Owner shall, at the request of the Bidder to whom award of a Contract is under consideration and no later than seven days prior to the expiration of the time for withdrawal of Bids, furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

##### **§ 6.3 SUBMITTALS**

**§ 6.3.1** The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to the Owner through the Architect in writing:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder in writing if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid or (2) submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

## **ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND**

### **§ 7.1 BOND REQUIREMENTS**

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds may be secured through the Bidder's usual sources.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 If the Owner requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.

### **§ 7.2 TIME OF DELIVERY AND FORM OF BONDS**

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

## **ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on AIA Document A101, Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment Is a Stipulated Sum.

**SECTION 00 42 00 - PROPOSAL FORM**

PROJECT: Randolph County Animal Shelter  
Additions and Renovations  
1370 County Land Road  
Randleman, NC 27317

OWNER: Randolph County  
725 McDowell Rd.  
Asheboro, North Carolina 27205

ARCHITECT: Smith Sinnett Architecture  
4600 Lake Boone Trail, Suite 205  
Raleigh, North Carolina 27607

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, and has read all special provisions furnished prior to the opening of bids; that he has satisfied himself relative to the work to be performed.

The Bidder proposes and agrees if this proposal is accepted to contract with **Randolph County** in the form of contract specified below, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete the construction of

**Randolph County Animal Shelter Addition and Renovations**

in full in complete accordance with the plans, specifications and contract documents, to the full and entire satisfaction of **Randolph County**, and **Smith Sinnett Architecture** with a definite understanding that no money will be allowed for extra work except as set forth in the General Conditions and the contract documents.

The low Bidder will be determined by the total cost of the Contract with the lump sum prices of the alternates accepted being added to or deducted from the Base Bid to give the total cost of the Contract. Bidders are required to give a price for Base Bid, all Alternates, and all Unit Prices as applicable to their Contract. All Bidders are required to be licensed and in good standing with their respective North Carolina Licensing Board.

**SINGLE PRIME CONTRACT:**

---

---

**BASE BID:**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 1: Owner Preferred Manufacturer: Door Hardware**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 2: Existing Building: Exterior Paint**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 3: Existing Building: Metal Roof Replacement**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 4: Existing Building: Interior Improvements**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 5: Existing Building: Lighting Upgrade**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**ALTERNATE 6: Hollow Metal Interior Frames and Doors**

Total Amount: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

**MAJOR SUBCONTRACTORS** (Name, City & State)

General Subcontractor:

\_\_\_\_\_ Lic \_\_\_\_\_

Plumbing Subcontractor:

\_\_\_\_\_ Lic \_\_\_\_\_

Mechanical Subcontractor:

\_\_\_\_\_ Lic \_\_\_\_\_

Electrical Subcontractor:

\_\_\_\_\_ Lic \_\_\_\_\_

GS143-128(d) requires all single prime bidders to identify their subcontractors for the above subdivisions of work. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor's bid is later determined by the contractor to be non-responsible or non-responsive or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor.

The bidder further proposes and agrees hereby to commence work under this contract on a date to be specified in a written order of the designer and shall fully complete all work thereunder within the time specified in the Supplementary General Conditions Article 9. Applicable liquidated damages amount is also stated in the Supplementary General Conditions Article 9.

**BIDDERS CHECKLIST**

Bidder's are to submit the following documents with their bid. Failure to submit the required forms/documentation may cause bid to be rejected.

The County is requiring the use of a 2 envelope system for all bids. The first envelop should include the "Bid Guarantee" (copy of the bid bond), marked as such, and attached to the sealed envelope containing the bidder's proposal. The second bid envelope should be sealed, marked as "BID PROPOSAL" with the following information listed on the outside of the envelope:

- i. Bidder's Name and Address
- ii. North Carolina Contractor's License Number
- iii. Name of Project

\_\_\_\_\_ Proposal Form

\_\_\_\_\_ Bid Bond

\_\_\_\_\_ Identification of HUB Certified/Minority Business Participation Form

\_\_\_\_\_ Affidavit A or Affidavit B

\_\_\_\_\_ Acknowledgement of Addendums issued

\_\_\_\_\_ Bid Form Signed (In Separate Envelope), Sealed and Attested (or Witnessed)

\_\_\_\_\_ E-Verify Affidavit

Vendor agree to accept VISA® Purchasing Card for invoice payments in place of a check to pay for purchases from this solicitation. \_\_\_\_\_ Yes \_\_\_\_\_ No

**ALLOWANCES**

(Refer to Division 01 Section 01 21 00 – Allowances for amounts to be included in bid)  
Acknowledge Allowances have been included with in the Base Bid and Alternate 5

**BASE BID ALLOWANCES**

UP/A-1 \_\_\_\_\_ UP/A-2 \_\_\_\_\_ UP/A-3 \_\_\_\_\_ UP/A-4 \_\_\_\_\_ UP/A-5 \_\_\_\_\_  
UP/A-6 \_\_\_\_\_ UP/A-7 \_\_\_\_\_ UP/A-8 \_\_\_\_\_ A-9 \_\_\_\_\_ A-10 \_\_\_\_\_

**UNIT PRICES**

(Refer to Division 01 Section 01 22 00 - Unit Prices for Quantities)  
Unit prices quoted and accepted shall apply throughout the life of the contract, except as otherwise specifically noted. Unit prices shall be applied, as appropriate, to compute the total value of changes in the Base Bid and quantity of the work all in accordance with the contract documents.

Unit Price No. UP/A-1: <u>Undercut / Replacement in Open: per cubic yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-2: <u>Undercut/Replacement in Trenches: per cubic yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-3: <u>Utility Trench Undercut/Replacement: per cubic yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-4: <u>Rock Excavation/Replacement in Open: per cubic yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-5: <u>Utility Trench Rock Excavation/Replacement: per cubic yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-6: <u>Geotextile Fabric: per square yd.</u>	Unit Price (\$) _____
Unit Price No. UP/A-7: <u>Special Primer: per square foot</u>	Unit Price (\$) _____
Unit Price No. UP/A-8: <u>Face Brick: per 1,000</u>	Unit Price (\$) <u>\$485.00</u>

**ADDENDUM**

(Addendum received and used in computing bid)

Addendum No. 1 \_\_\_\_\_ Addendum No. 3 \_\_\_\_\_ Addendum No. 5 \_\_\_\_\_  
Addendum No. 2 \_\_\_\_\_ Addendum No. 4 \_\_\_\_\_ Addendum No. 6 \_\_\_\_\_

**PROPOSAL SIGNATURE PAGE**

---

---

The undersigned further agrees that in the case of failure on his part to execute the said contract and the bonds within ten (10) consecutive calendar days after being given written notice of the award of 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. No proposal may be withdrawn after the scheduled closing time for the receipt of Bids for a period of **sixty (60)** days.

Respectfully submitted this day of \_\_\_\_\_

\_\_\_\_\_  
(Name of firm or corporation making bid)

WITNESS: \_\_\_\_\_ By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
(Proprietorship or Partnership) Name: \_\_\_\_\_  
Print or type

Title: \_\_\_\_\_  
(Owner/Partner/Pres./V.Pres)

Address: \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_ License No.: \_\_\_\_\_

Title: \_\_\_\_\_ Federal I.D. No.: \_\_\_\_\_  
(Corp. Sec. or Asst. Sec. only)

Email Address: \_\_\_\_\_

(CORPORATE SEAL)



**MINORITY BUSINESS PARTICIPATION REQUIREMENTS**

*Provide with the bid* - Under GS 143-128.2(c) the undersigned bidder shall identify **on its bid** (Identification of Minority Business Participation Form) the minority businesses that it will use on the project with the total dollar value of the bids that will be performed by the minority businesses. **Also** list the good faith efforts (Affidavit **A**) made to solicit minority participation in the bid effort.

**NOTE:** A contractor that performs all of the work with its own workforce may submit an Affidavit (**B**) to that effect in lieu of Affidavit (**A**) required above. The MB Participation Form must still be submitted even if there is zero participation.

*After the bid opening* - The Owner will consider all bids and alternates and determine the lowest responsible, responsive bidder. Upon notification of being the apparent low bidder, the bidder shall then file within 72 hours of the notification of being the apparent lowest bidder, the following:

An 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 10% goal established. This affidavit shall give rise to the presumption that the bidder has made the required good faith effort and Affidavit **D** is not necessary;

**\* OR \***

If less than the 10% goal, Affidavit (**D**) of its good faith effort to meet the goal shall be provided. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

**Note:** Bidders must always submit **with their bid** the Identification of Minority Business Participation Form listing all MB contractors, vendors and suppliers that will be used. If there is no MB participation, then enter none or zero on the form. Affidavit A **or** Affidavit B, as applicable, also must be submitted with the bid. Failure to file a required affidavit or documentation with the bid or after being notified apparent low bidder is grounds for rejection of the bid.

**END OF SECTION 00 42 00**

**STATE OF NORTH CAROLINA  
COUNTY OF RANDOLPH**

**AFFIDAVIT OF COMPLIANCE – E-VERIFY**

I, \_\_\_\_\_(the individual attesting below), being duly authorized by and on behalf of \_\_\_\_\_ (hereinafter "Contractor") after first being duly sworn hereby swears or affirms as follows:

1. Contractor understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with Article 2 of Chapter 65 of the North Carolina General Statutes; and
2. Contractor understands that “Employer”, as defined in NCGS§64-25(4), are required by law to use E-Verify to verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a). The term “Employer” does not include State agencies, counties, municipalities, or other governmental bodies.
3. Contractor is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in the state of North Carolina. (mark Yes or No)
  - a. YES \_\_\_\_\_, or
  - b. NO \_\_\_\_\_
4. Contractor will ensure compliance with E-Verify by any subcontractors subsequently hired by Contractor to perform work under Contractor’s contract with Onslow County.
5. Contractor shall keep the County of Onslow informed of any change on its status pursuant to Article 2 of Chapter 64 of the North Carolina Statutes.

This \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Signature of Affiant

Print or Type Name: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me, this the \_\_\_\_  
day of \_\_\_\_\_, 201\_\_.

My Commission Expires:  
\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

(Affix Official/Notarial  
Seal)





**AIA**<sup>®</sup>

# Document A310™ – 2010

## ***Bid Bond***

**CONTRACTOR:**

*(Name, legal status and address)*

**SURETY:**

*(Name, legal status and principal place of business)*

**OWNER:**

*(Name, legal status and address)*

Randolph County  
725 McDowell Road  
Asheboro, North Carolina 27205

**BOND AMOUNT: \$**

**PROJECT:**

*(Name, location or address, and Project number, if any)*

Randolph County Animal Shelter  
Addition and Renovations  
1370 County Land Rd  
Randleman, North Carolina 27317

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner 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. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so

Init.

furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this     day of     ,

\_\_\_\_\_ (Contractor as Principal) (Seal)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

\_\_\_\_\_ (Surety) (Seal)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)



## Randolph County Purchasing Office

725 McDowell Road, Asheboro, NC 27205

P: 336.318.6304 F: 336.636.7568 Email: [lisa.garner@randolphcountync.gov](mailto:lisa.garner@randolphcountync.gov)

### **Minority Certification**

Randolph County does not certify minority businesses. Any business which desires to participate as a minority business in Randolph County contracts will be required to become certified by at least one of the following agencies:

1. North Carolina Department of Administration Historically Underutilized Business (HUB) certification  
<http://www.doa.state.nc.us/hub/forms.aspx>
2. North Carolina Department of Transportation Minority/Disadvantaged/Woman Small Owned Business certification
3. Small Business Administration 8(a) certification
4. Other governmental agencies on case-by-case basis



## Randolph County Purchasing Office

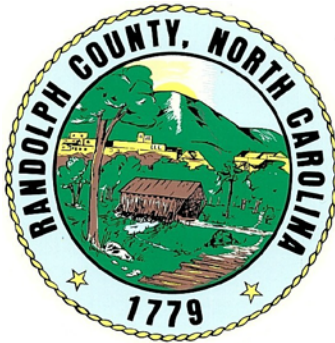
725 McDowell Road, Asheboro, NC 27205

P: 336.318.6304 F: 336.636.7568 Email: [lisa.garner@randolphcountync.gov](mailto:lisa.garner@randolphcountync.gov)

# **RANDOLPH COUNTY**

## **Minority Business**

# **OUTREACH PLAN**





## TABLE OF CONTENTS

	Page
<b>INTRODUCTION.....</b>	<b>2</b>
<b>DEFINITIONS.....</b>	<b>2</b>
<b>OUTREACH PLAN.....</b>	<b>4</b>
<b>DESIGNER RESPONSIBILITIES.....</b>	<b>5</b>
<b>CONTRACTOR RESPONSIBILITIES.....</b>	<b>5</b>
<b>MINORITY BUSINESS RESPONSIBILITIES.....</b>	<b>6</b>
<b>MINIMUM COMPLIANCE REQUIREMENTS.....</b>	<b>7</b>

## INTRODUCTION

In accordance with G.S. 143-128.2 (effective January 1, 2002) this Outreach Plan establishes goals for minority business participation in single-prime bidding, separate-prime bidding, dual bidding, Construction Manager-at-Risk, and alternative contracting methods on Randolph County building construction projects in the amount of \$300,000 or more (or if using state funds, \$100,000 or more). The Outreach Plan shall also be applicable to the selection process of architectural, engineering, surveying, and Construction Manager-at-Risk services.

Randolph County's current goal for minority business participation for public building construction is ten percent (10%). The overall goal will be reviewed annually or as soon as relevant data is available.

The intent of this Outreach Plan is that Randolph County, as awarding authority for construction projects, and the contractors and subcontractors performing the construction contracts awarded, shall cooperate and in good faith do all things, legal, proper and reasonable to achieve the established goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by GS 143-128.2. Nothing in this Outreach Plan shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority business contractors or minority business subcontractors who do not submit the lowest responsive responsible bid or bids.

A copy of this Outreach Plan will be issued with each bid package for Randolph County building construction projects.

## DEFINITIONS

1. Minority – a person who is a citizen or lawful permanent resident of the United States and who is:
  - a. Black, that is, a person having origins in any of the black racial groups in Africa;
  - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
  - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
  - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
  - e. Female
  
2. Minority Business – means a business
  - a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and

- b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual – means the same as defined in 15 U.S.C. 637. “Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities”. “Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged”.
  4. Public Entity – means State and all public subdivisions and local government units.
  5. Owner – Randolph County.
  6. Designer – Any person, firm, partnership, or corporation, association, or joint venture which has contracted with Randolph County to perform architectural or engineering work.
  7. Bidder – Any person, firm, partnership, corporation, association, or joint venture bidding on a public contract or subcontract.
  8. Contract – A mutually binding legal relationship, or any modification thereof, obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
  9. Contractor – Any person, firm, partnership, corporation, association, or joint venture which has contracted with Randolph County to perform construction work or repair.
  10. Subcontractor – Any person, firm, partnership, corporation, association, or joint venture under contract with the prime contractor or Construction Manager-at-Risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in the subcontract.

## **OUTREACH PLAN**

1. Work with minority-focused business groups in attempt to recruit minority business participation in Randolph County contracts/bids.
2. Emphasize the importance of soliciting certified minority businesses for subcontracting opportunities to prime contractors at pre-bid conferences and in the bid documents. Examine specifications to identify special subcontracting opportunities and strongly encourage prime contractors to solicit bids for subcontracts from minority businesses.
3. Hold meetings with contractors and designers to provide information on this Outreach Plan and G.S. 143-129 requirements.
4. Assess the effectiveness of this Outreach Plan by monitoring minority business participation and reviewing the “good faith efforts” of contractors.
5. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from Randolph County for public construction or repair work and minority businesses that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:
  - a. A description of the work for which the bid is being solicited
  - b. The date, time, and location where bids are to be submitted
  - c. The name of the individual within Randolph County who will be available to answer questions about the project
  - d. Where bid documents may be reviewed
  - e. Any special requirements that may exist
6. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought and advertise bid opportunities in such minority-focused media.
7. Build new business relationships through networking with other North Carolina cities and counties and sharing ideas to improve the Outreach Plan.
8. Offer training sessions to educate the County’s Outreach Plan with interested businesses and organizations.
9. Post the Outreach Plan on the County’s website listing good faith efforts and creating links to minority business resources.
10. Maintain a database specifically for minority businesses to ensure those businesses are notified when bid opportunities become available. The database shall also record minority business participation in Randolph County bids/proposals.

## **DESIGNER RESPONSIBILITIES**

Under the single-prime bidding, separate prime bidding, dual bidding, Construction Manager-at-Risk, or alternative contracting method, the designer shall do all of the following:

- a. Attend scheduled prebid conferences to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority businesses of potential contracting opportunities.
- c. Maintain documentation of contacts, correspondence, and/or conversations with minority businesses.
- d. Review jointly with the owner, requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f).
- e. During the construction phase of the project, review pay applications and forward copies to Randolph County.

## **CONTRACTOR RESPONSIBILITIES**

Pursuant to NCGS 143-128.2(c), each bidder, which shall mean first-tier subcontractor for construction manager at risk projects, on a project bid under any of the methods authorized under G.S. 143-128(a1) 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 and the total dollar value of the bid that will be performed by the minority businesses. A contractor, including a first-tier subcontractor on a construction manager at risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

- 1) Within the time specified in the bid documents, either:
  - a. An affidavit 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. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith effort; or
  - b. Documentation of its good faith effort to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.
- 2) Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

No subcontractor who is identified and listed pursuant to this section may be replaced with a different subcontractor except:

- 1) If the subcontractor's bid is later determined by the contractor or construction manager at risk 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 Randolph County for good cause.

Good faith efforts as set forth in G.S. 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 public entity of its good faith efforts.

### **MINORITY BUSINESS RESPONSIBILITIES**

Randolph County does not certify minority businesses. Any business which desires to participate as a minority business in Randolph County contracts will be required to become certified by at least one of the following agencies:

- a. North Carolina Administration Department Historically Underutilized Business (HUB) certification.
- b. North Carolina Department of Transportation Minority/Disadvantage/Woman-owned Business certification.
- c. Small Business Administration 8(a) certification.
- d. Other governmental agencies on a case-by-case basis.

## MINIMUM COMPLIANCE REQUIREMENTS

Bidders must earn at least 50 points from the good faith efforts listed below in order for their bids to be considered responsive.

- (1) Contacting 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 or proposal date and notifying them of the nature and scope of the work to be performed. **Value = 10 points.**
- (2) Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due. **Value = 10 points.**
- (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation. **Value = 15 points.**
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses. **Value = 10 points.**
- (5) Attending any prebid meetings scheduled by the public owner. **Value = 10 points.**
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. **Value = 20 points.**
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing. **Value = 15 points.**
- (8) Providing assistance to an otherwise qualified minority business 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. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit. **Value = 25 points.**
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible. **Value = 20 points.**
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. **Value = 20 points.**

*Approved April 5, 2004*

## Identification of HUB Certified/ Minority Business Participation

I, \_\_\_\_\_,  
 (Name of Bidder)

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

Firm Name, Address and Phone #	Work Type	*Minority Category	**HUB Certified (Y/N)

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

**\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.**

**The total value of minority business contracting will be (\$)**\_\_\_\_\_.





### AFFIDAVIT A – Listing of Good Faith Efforts

County of \_\_\_\_\_

Affidavit of \_\_\_\_\_  
(Name of Bidder)

I have made a good faith effort to comply under the following areas checked:

**Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive.** (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** 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.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority 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 minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business 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 minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

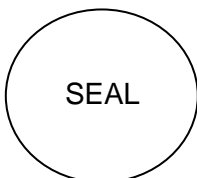
The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

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

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, 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 all elements of the work on this project with his/her own current work forces; and

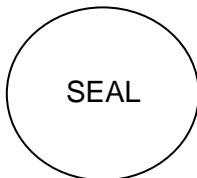
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

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 \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_



Do not submit with bid    Do not submit with bid    Do not submit with bid    Do not submit with bid

**AFFIDAVIT C - Portion of the Work to be Performed by  
HUB Certified/Minority Businesses**

County of \_\_\_\_\_

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by HUB certified/minority businesses as defined in GS143-128.2(g) and 128.4(a),(b),(e) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit.

This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of \_\_\_\_\_ I do hereby certify that on the  
(Name of Bidder)

\_\_\_\_\_ (Project Name)

Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses 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 required

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

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

**\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.**

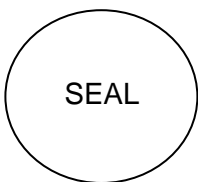
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

Do not submit with bid    Do not submit with bid    Do not submit with bid    Do not submit with bid

Do not submit with bid    Do not submit with bid    Do not submit with bid    Do not submit with bid

**AFFIDAVIT D – Good Faith Efforts**

County of \_\_\_\_\_

**(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)**

If the goal of 10% participation by HUB Certified/ minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of \_\_\_\_\_ I do hereby certify  
 that on the \_\_\_\_\_  
 (Name of Bidder)

\_\_\_\_\_ (Project Name)  
 Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with HUB certified/ minority business enterprises. Minority businesses 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 required)

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

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

**\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.**



Do not submit with bid    Do not submit with bid    Do not submit with bid    Do not submit with bid

**Examples** of documentation that may be required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- A. Copies of solicitations for quotes to at least three (3) minority business firms 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.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. 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.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

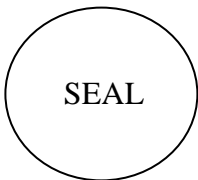
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

## GENERAL CONDITIONS

### ARTICLE 1. DEFINITIONS

- 1.1 Agreement—the Contract, the General Conditions, and any Supplementary Conditions.
- 1.2 Architect—the person or firm designated as the Architect in the Contract Documents, or their authorized representatives. The Architect(s), as referred to herein, shall mean architect, landscape architect, and/or engineer. They will be referred to hereinafter as if each were of the singular number, masculine gender.
- 1.3 Change Order—A written order to the Contractor signed by the Owner and the Architect authorizing an addition, deletion or revision in the Work and/or an adjustment in the Contract Price and/or the Contract Time issued after the execution of the Contract.
- 1.4 Completion Date—the dates identified as the completion dates in the Contract, Construction Schedule or elsewhere in the Contract Documents.
- 1.5 Construction Change Directive—a written order to the Contractor signed by the Owner and the Architect directing an addition, deletion, or revision in the Work after execution of the Contract, in circumstances when the parties have been unable to agree on an adjustment to the Contract Price or the Contract Time, but the Owner requests that the Contractor proceed with said Work subject to adjustment of the Contract Price and/or Contract Time under the procedures described herein.
- 1.6 Construction Schedule—that schedule described in Article 13 hereof and identified as the Construction Schedule.
- 1.7 Contract—the document executed by the Contractor and the Owner to formally memorialize their consent to the terms of the Agreement.
- 1.8 Contract Documents—all of the documents that make up the Agreement, plus the Drawings and Specifications that describe the scope of the Work plus any allowable Modifications to the Contract Documents.
- 1.9 Contract Price—the total monies payable to the Contractor under the Contract Documents.
- 1.10 Contract Time—the number of calendar days stated in, or computed from, the Contract Documents for the completion of the Work, or any portion thereof. See particularly Article 13 hereof and the Construction Schedule. Time of completion as specified therein is of the essence.
- 1.11 Contractor—that party identified as such in the Contract.
- 1.12 Days—unless otherwise indicated, the term “days” shall mean consecutive calendar days.

- 1.13 Drawings—The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, and generally including plans, elevations, sections, details, schedules and diagrams.
- 1.14 Field Order—a written order issued by the Architect which clarifies or interprets the Contract Documents or orders minor changes in the Work in accordance with the Contract Documents. See paragraph 14.3.
- 1.15 Final Completion—the point at which the Contractor has, as determined by the Architect, completed the Work, with the exception of guaranty and warranty obligations and becomes entitled, upon the recommendation of the Architect and determination by the Owner, to final payment.
- 1.16 Liquidated Damages—See paragraphs 13.16 and 13.17 of these General Conditions.
- 1.17 Modification—(A) a written amendment to the Contract Documents signed by the Owner and the Contractor and identified therein as such, (B) a Change Order, (C) a Construction Change Directive, or (C) a Field Order. A Modification may only be issued after execution of the Agreement.
- 1.18 Notice of Award—the written notice by the Owner to the Contractor that the Contractor is the successful Bidder and that upon compliance with the conditions precedent to be fulfilled by the Contractor within the time specified, the Owner will execute and deliver the Agreement to him.
- 1.19 Notice to Proceed—See paragraph 13.3 of these General Conditions.
- 1.20 Owner—the Owner is the person designated as such in the Agreement.
- 1.21 Owner’s Authorized Representative—a person or persons employed by the Owner and designated from time to time by written notice to the Contractor to administer the Contract Documents and to observe and monitor the Work on behalf of the Owner with authority and responsibility as herein specified.
- 1.22 Notice—the term “notice” or “written notice” as used herein shall mean and include all written notices, demands, instructions, and claims approvals and disapprovals furnished by the Owner or the Architect to obtain compliance with the requirements of the Contract Documents, as well as written notices, demands, instructions, and claims furnished by the Contractor as required by the Contract Documents. Where notice is required under the terms of the Contract Documents, written notice shall always be required, and oral or “constructive” notice shall be insufficient and ineffective as notice. Email or other electronic delivery shall be insufficient and ineffective as notice unless specifically allowed in the Supplementary Conditions or a Modification to the Agreement. Written notice shall be deemed to have been served on the date that it is delivered in person to the

individual or to a member of the firm, to an officer of the corporation for whom it is intended, to an authorized representative of such individual, firm or corporation, or on the date that it is mailed by registered or certified mail, return receipt requested, addressed to the last business address of such individual, firm or corporation known to the person giving the notice. In the case of delivery in person, such delivery shall not be effective unless and until a written and signed receipt showing the date and time of delivery is obtained.

- 1.23 Project—the total construction of which the Work performed under the Contract Documents may be the whole or a part.
- 1.24 Project Manager—that person designated by the Contractor in accordance with paragraph 7.2 who shall be in general charge of the Work and its performance.
- 1.25 Request for Information—a written communication from the Contractor to the Architect for any interpretation of, or information needed, required, or desired under the Contract Documents. The Owner reserves the right to determine the reasonable format and contents required for a Request for Information. In any Request for Information, the Contractor shall state a reasonable date by which a response is necessary in order to avoid delay in progress on the Work and shall make such request sufficiently in advance of such date as to avoid any such delay. The Architect shall respond in writing to the Request for Information by the date stated by the Contractor unless he cannot reasonably do so, in which case he shall, prior to that date, notify the Contractor of the date by which he can reasonably respond. The Contractor shall not be entitled to any additional time for the completion of the Work or any portion thereof by reason of the Architect's failure to respond if he has not submitted his Request for Information sufficiently in advance to allow the Architect a reasonable time within which to respond.
- 1.26 Request for Payment—the form, in the form of AIA Document G702 or other published document approved by the Owner, which is to be used by the Contractor in requesting progress payments and which is to include a Schedule of Values as required by the Contract Documents and an affidavit of the Contractor that progress payments theretofore received from the Owner on account of the Work have been applied by the Contractor to discharge in full all of the Contractor's obligations incurred in connection with the Work covered by all prior applications for payment.
- 1.27 Schedule of Values—any breakdown of the Contract Price which may be required by the Contract Documents, and designated as such.
- 1.28 Specifications—that portion of the Contract Documents consisting generally of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work and the performance of related services.
- 1.29 Subcontractor—a person, firm or corporation who has entered into a direct contract with the Contractor to perform any of the Work on the Project.

- 1.30 Submittal—shop drawings, product data, samples, and other documents required by the Contract Documents to be submitted by the Contractor to the Architect.
- 1.31 Submittal Register—see paragraph 13.2 of these General Conditions.
- 1.32 Substantial Completion—the point at which the Work on the Project, as determined by the Architect, is sufficiently complete in accordance with the Contract Documents that it can be beneficially occupied by the Owner and the Work can be utilized by the Owner for its intended use, and all necessary permits and permissions for beneficial occupancy and utilization have been obtained by the Contractor. All operations and maintenance manuals, Owner training, and as-built drawings must be submitted prior to Substantial Completion being achieved.
- 1.33 Sub-subcontractor—a person or entity that has a direct or indirect contract with a Subcontractor to perform any of the Work at the Project.
- 1.34 Work—the construction and services required by the Contract Documents, including all labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations.
- 1.35 All references in the Contract Documents to the masculine shall be interpreted as including the feminine or neuter and all references in the Contract Documents to the singular or the plural shall be interpreted as including the other, as may be appropriate in the reasonable interpretation of the Contract Documents.

ARTICLE 2. CORRELATION, INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS.

- 2.1 It is the intent of the Specifications and Drawings and other Contract Documents to describe a complete Project in accordance with the Contract Documents.
- 2.2 The Contract Documents are complementary, what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, the Contractor shall notify the Architect in writing before proceeding with the Work affected thereby. In resolving such conflicts, errors and discrepancies, the Contract Documents shall be given preference in the following order: Construction Agreement, Modifications, Addenda, Supplemental Conditions, General Conditions, Specifications, and Drawings. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. Any Work that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words, so applied, have a well-known technical trade meaning shall be deemed to refer to such meaning and to incorporate any recognized standards which are a part of such meaning.

- 2.3 Miscellaneous items, accessories, and work which are not specifically mentioned, but which are essential to produce a complete and properly operating installation, or useable structure or plant providing the indicated function shall be furnished and installed without change in the Contract Price. Such miscellaneous items and accessories shall be of the same quality standards, including material, style, finish, strength, class, weight, and other applicable characteristics, as specified for the major component of which the miscellaneous item or accessory is an essential part, and shall be approved by the Architect before installation. This requirement is not intended to include major components not covered by or inferable from the Contract Documents.
- 2.4 The Work of all trades under the Contract Documents shall be coordinated by the Contractor in such a manner as to obtain the best workmanship possible for the entire Project and all components of the Work shall be installed or erected in accordance with the best practices of the particular trade.
- 2.5 The Contractor shall fully complete the Work and shall be responsible for all of the Work under the Contract Documents to which the Agreement applies. If the Contractor is prevented from doing so by any limitation of the Contract Documents, the Contractor shall immediately give notice thereof to the Architect and the Owner in writing before proceeding with the construction in the area where the problem or limitation exists.
- 2.6 Standard specifications or manufacturers' literature, when referenced, shall be of the latest revision or printing unless otherwise stated and is intended to establish the minimum requirements acceptable.
- 2.7 For those materials specified without the use of brand names, the Contractor shall submit within thirty (30) days after his receiving the Agreement for signatures, any product that meets the express requirements of the Specifications. Such Submittal shall include manufacturer's data, test reports, performance data and certifications, samples, erection details, and other applicable information as required to permit determination by the Architect whether such proposed products are suitable. The Architect shall be the sole judge as to the suitability of any proposed product. The burden of proof of quality rests with the Contractor.
- 2.8 The Contractor is required to examine and read the complete set of Contract Documents for information concerning the Work. No allowance will be made for the Contractor's failure to become familiar with the complete set of project documents.
- 2.9 Contractor's requests for clarification or information shall clearly define the cause(s) of Contractor's request and, as appropriate, shall include the Contractor's interpretation and Contractor's proposed solution.

ARTICLE 3. FAMILIARITY WITH WORK, CONDITIONS AND LAWS

- 3.1 The Contractor has investigated prior to bidding and is satisfied with all conditions affecting the Work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electrical power, roads and uncertainties of weather, or similar physical conditions at the Project site, and the character of equipment and facilities needed prior to and during prosecution of the Work. The Contractor is satisfied as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from inspection of the Project site, including all exploratory work done by the Owner, as well as from information presented by the Contract Documents, or any other information made available to the Contractor prior to receipt of bids. Any failure by the Contractor to become acquainted with the available information shall not relieve the Contractor from the responsibility for estimating properly the difficulty or cost of successfully performing the Work.
- 3.2 The Contractor shall be entitled to rely upon all information furnished to the Contractor in writing by the Owner with respect to the Project site and to make all inferences from it that would reasonably be made by a contractor having knowledge and experience with similar work; however, the Contractor shall not be entitled to infer from Owner-supplied information any fact or condition which would not be inferred by a contractor having knowledge and experience with similar work, and if the Owner-supplied information is inadequate or insufficient in any respect, the Contractor shall be required to obtain independently such other information as a knowledgeable and experienced contractor would prudently obtain in order to evaluate any such condition.
- 3.3 The Contractor specifically acknowledges familiarity with all Federal, State, and local laws, ordinances, rules and regulations which may in any manner affect those engaged or employed in the Work, or the materials or equipment in or about the Work, or in any way affect the conduct of the Work and agrees that the Contractor and the Contractor's employees, subcontractors, and suppliers will, at all times, comply with same. If the Contractor shall discover any provisions in the Contract Documents which are contrary to or inconsistent with any such law, ordinance, rule or regulation, the Contractor shall immediately give notice thereof to the Architect and the Owner in writing, identifying any items of Work affected, and the Contractor shall not proceed until the Contractor has received written direction from the Architect with respect to these items. If the Contractor performs contrary to or inconsistently with any such law, ordinance, rule or regulation without giving such notice, the Contractor shall bear all costs which are a consequence of such performance.

ARTICLE 4. BONDS

- 4.1 A performance bond in the full amount of the Contract Price shall be required of the Contractor to guarantee the faithful performance of the work in compliance with the Contract Documents, in such form as may be required by law and approved by the

Owner. The bond shall be dated the same date as the Agreement and must be accompanied by a current copy of the power of attorney for the attorney-in-fact executing such bond on behalf of a surety company licensed to do business in the state of North Carolina.

- 4.2 A payment bond in the full amount of the Contract Price shall be required of the Contractor to guarantee the payment of all labor and material costs or claims in connection with compliance with the Contract. The payment bond shall be in such form as may be required by law and approved by the Owner. Said bond shall be dated and executed in the same manner as the performance bond referenced in paragraph 4.1 above.

## ARTICLE 5. INSURANCE AND INDEMNITY

- 5.1 **CONTRACTOR PROVIDED INSURANCE**—The Contractor shall, without limiting its obligations or liabilities, procure, pay for and maintain such insurance as is required by law and as is required by this Agreement to protect the Contractor and the Owner from claims or damages for bodily injury, including death, and from claims for property damage which may arise from the Contractor's or its representatives', consultants', Subcontractors', agents', or employees' operations under this Agreement. Such insurance shall be of the kinds and have the limits of liability and coverages not less than the minimum limits hereinafter specified or required by law, whichever is greater. The Owner makes no representation as to the adequacy or sufficiency of such coverages. The following requirements shall in no way be construed to limit or eliminate the liability of the Contractor, which arises from the performance of Work under the Agreement. The Contractor is strictly responsible for any losses, claims and costs of any kind which exceed the Contractor's limits of liability, or which may be outside the coverage scope of the policies.

The insurance specified shall be provided by an insurer approved by the Owner, authorized to do business in the State of North Carolina, and on terms approved by the Owner. Insurance companies utilized shall have a minimum rating of A- and Class VII as evaluated by the most current A.M. Best Rating Guide. If the insurer has a Best Rating less than A- and Class VII, the Contractor must receive specific written approval from the Owner prior to proceeding with any Work under the Agreement. All agents and brokers shall hold valid licenses from the State of North Carolina. Before commencing mobilization to the Project site and not less than 7 days after receipt of the Agreement by the Contractor for signatures, the Contractor shall furnish to the Owner a certificate or certificates of insurance in a form satisfactory to the Owner. Upon request of the Owner, the Contractor shall provide the Owner with certified copies of the insurance policies required by this Article, including without limitation declaration pages, conditions, exclusions and endorsements, and confirmation that each policy premium has been paid for the required term of this Agreement. Certificates shall be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance policies shall provide, as evidenced by Certificates of Insurance, that the insurance shall not be canceled, reduced, restricted, or changed in any way without at least 30 days prior written



notice to the Owner. With regard to expiration, cancellation, reduction, restriction, or any other change, certificates shall state: "Should any of the following described policies be canceled before expiration date or be due to expire within 30 days, the insurer shall mail 30 days prior written notice to named certificate holder." In the event of any such cancellation, non-renewal, reduction, restriction or change in any insurance, the Contractor is obligated to replace such insurance within 7 days without a gap in coverage and file accordingly such notice with the Owner and other interested parties. Failing immediate receipt of evidence of such replacements of insurance the Owner reserves the right to procure such insurance as the Owner considers desirable and the Contractor shall pay or reimburse the cost of the premium in respect thereof. It is expressly provided, however, that any action or inaction on the part of the Owner in this respect shall in no way change or reduce the Contractor's responsibilities and liabilities under this Agreement. Self-funded, policy fronting, or other non-risk transfer insurance mechanisms are not acceptable without prior written approval of the Owner. Full disclosure of such a program must be made prior to commencing mobilization to the Project site. Failure to make a full disclosure constitutes a material breach of this Agreement, justifying termination for default.

The Contractor shall name the Owner, the Architect, the Architect's consultants, and the Construction Manager as additional insureds under all its insurance contracts (except workers' compensation) with respect to and including without limitation liability arising out of activities performed by and on behalf of the Contractor, products and completed operations of the Contractor, and automobiles owned, hired, leased, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

For any claims related to this Project, the Contractor's insurance shall be primary and noncontributory with respect to the Owner's insurance. Any insurance or self-insurance maintained by the Owner shall be excess and noncontributory with respect to the Contractor's insurance.

All policies of insurance shall contain a clause waiving rights of subrogation against the Owner, unless the Owner approves otherwise in writing.

Limits of coverage are not to be amended by deductible clauses of any nature without the express written consent of the Owner. The Contractor shall be solely responsible for any deductible assumptions that may exist in any insurance policies required under this Agreement. In addition, the Contractor shall be responsible and shall not be reimbursed for any losses arising from any risk or exposure not insured as required herein, or not covered as a result of a normal policy exclusion or that falls within the self-insured retention, if Contractor is self-insured.

The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

The claim provisions in the Contractor's insurance policies must specifically state the insurance company or Contractor's Third Party Administrator, if self-insured, has both the right and duty to adjust a claim and provide defense.

The policies shall not contain any provision or definition which would serve to exclude or eliminate from coverage third party claims, including exclusions of claims for bodily or other injury to shareholders, partners, officers, directors, or employees of the insured, the premises owner, real estate manager, or the insured's Subcontractor, or any family relative of such persons.

If the policies contain any warranty stating that coverage is null and void (or words to that effect) if the Contractor does not comply with the most stringent regulations governing the Work, it shall be modified so that coverage shall be afforded in all cases except for the Contractor's willful or intentional noncompliance with applicable government regulations.

Any failure by any person to comply with reporting or other provisions of the policy including breach of warranties, shall not affect coverage provided to the Owner and its representatives, officials and employees.

The insolvency or bankruptcy of the Insured or of the Insured's estate shall not relieve the insurance companies of their obligations under these policies. Any clauses to the contrary are unacceptable and must be stricken.

Failure to comply with these requirements shall be a material breach of this Agreement justifying termination for default.

#### 5.1.1 Workers' Compensation and Employers' Liability Insurance

The Contractor and the Subcontractors shall procure and maintain Workers' Compensation Insurance in the amount and type required by the State of North Carolina and federal law for all employees employed under the Agreement who may come within the protection of Workers' Compensation Laws and covering all operations under the Agreement whether performed by the Contractor or by his Subcontractors. In jurisdictions not providing complete Workers' Compensation protection, the Contractor and his Subcontractors shall maintain employers' liability insurance in an amount, form, company and agency satisfactory to the State of North Carolina and the Owner for the benefit of all employees not protected by Workers' Compensation Laws and covering all operations under the Agreement whether performed by the Contractor or by his Subcontractors.

The Contractor shall pay such assessments as will protect the Contractor and the Owner from claims under the Workers' Compensation Laws, workers' or workmen's compensation disability benefits, and other similar employee benefits acts. The current Experience Modification Factor shall be indicated on the Certificate of Insurance.

Coverage under this section shall be as required by federal and state Workers' Compensation and Occupational Disease Statutes, and shall have minimum limits as follows:

Coverage A:	Statutory, State of North Carolina
Employers' Liability: Each Accident	\$1,000,000
Disease-Policy Limit	\$1,000,000
Disease-Each Employee	\$1,000,000

Such insurance shall include Voluntary Compensation coverage, a Waiver of Subrogation in favor of the Owner as well as other endorsements that may be required by applicable jurisdictions, i.e. United States Longshoremen and Harbor Workers Act and maritime coverage (Jones Act).

#### 5.1.2 Automobile Liability Insurance

The Contractor shall procure and maintain automobile insurance against liability for bodily injury and property damage as described below, that may arise with respect to the Work being performed under this Agreement, and as will provide protection from claims which may arise out of or result from the Contractor's performance of the Work and the Contractor's other obligations under the Agreement, whether such performance of the Work is by the Contractor, by any representative or Subcontractor, by anyone, both officially and personally, directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

This policy of insurance shall carry the following minimum limit of liability:

Combined Single Limit	\$1,000,000
-----------------------	-------------

The policy of insurance shall contain or be endorsed to include the following:

- a) Owned, hired and non-owned automobile liability.
- b) If the policy contains a warranty stating that coverage is null and void (or words to that effect) if the transporter does not comply with the most stringent regulations governing the Work, it shall be modified so that coverage shall be afforded in all cases except for the transporter's willful or intentional noncompliance with applicable government regulations.

Any failure by any party to comply with reporting or other provisions of this policy including breach of warranties, shall not affect coverage provided to the Owner and its representatives, officials and employees.

No subcontracting of waste hauling shall be permitted without prior, written approval of the Owner.

### 5.1.3 General Liability

This policy must be written on an Occurrence basis, with the following minimum Limits of Liability:

General Aggregate per project	\$2,000,000.00
Products/Completed Operations Aggregate	\$2,000,000.00
Bodily Injury and Property Damage csl/each occurrence	\$1,000,000.00
Personal Injury and Advertising Injury	\$2,000,000.00

The policy of insurance shall contain or be endorsed to include the following:

- a) Blanket Contractual Liability covering Contractor's indemnification obligations under this Agreement, in accordance with ISO policy form CG 00 01. Modifications to the standard provision will not be acceptable if they serve to reduce coverage.
- b) Premises/Operations Liability
- c) Explosion, collapse and underground fault
- d) Independent Contractors and Independent Subcontractors coverage
- e) Broad Form Property Damage
- f) Personal Injury
- g) Cross Liability/Severability of Interest Clause
- h) Employer's Stop-Gap Liability endorsement, if applicable
- i) Amendment of the Pollution Exclusion Endorsement to allow coverage for bodily injury or property damage caused by heat, smoke, or fumes from a hostile fire
- j) Designated General Aggregate Limit Endorsement if required by the Supplemental General Conditions.

Coverage shall remain continuously in effect and without interruption for at least 6 years from the date of the Notice of Award and shall include coverage for exposures arising from operations that have been completed. The Contractor shall furnish the Owner and each other additional insured listed in the Agreement to whom the Certificates have been issued, evidence satisfactory to the Owner of continuation of such insurance at the date of Preliminary Acceptance and each year thereafter.

### 5.1.4 Pollution Legal Liability (PLL)

Pollution Legal Liability coverage will be provided if required in any Supplementary General Conditions.

### 5.1.5 Umbrella Liability

The Contractor shall maintain an occurrence basis (as distinguished from a "claims made" basis) Umbrella Liability policy (true follow form) over the underlying General Liability, Automobile Liability and Employer's Liability with the following limits of liability:

Each Occurrence	\$3,000,000.00
Aggregate	\$3,000,000.00

On a fully insured basis such coverage will be subject to a deductible no greater than \$10,000.00 per occurrence where coverage is not provided by the underlying insurance, but is provided by the Umbrella Liability policy.

The Contractor may use any combination of primary and umbrella insurance policies to comply with the insurance requirements, provided the resulting insurance is equivalent to the insurance stated herein.

All Occupational Disease exclusions must be deleted. Any Pollution Exclusion must be amended to allow coverage for bodily injury or property damage caused by spill, upset, overturn, heat, smoke, or fumes from a hostile fire.

#### 5.1.6 Property Insurance

The Contractor shall purchase All Risk Property Insurance on a Completed Value Form in the names of the Owner, Contractor, Subcontractors, and Sub-subcontractors as their interests may appear with limits as follows:

- a) Full insurance value of the Work; or
- b) Amount equal to the Contract Price for the Work whichever is higher.

The Contractor is responsible for all physical damage to owned or rented machinery, tools, equipment, forms and other items owned, rented or used by the Contractor and/or Subcontractor(s) in the performance of the Work. The insurance coverage evidencing such shall include a waiver of subrogation in favor of the Owner.

#### 5.1.7 Valuable Papers and Records

The Contractor shall provide valuable papers and records insurance with coverage in an amount commensurate with project scope.

#### 5.1.8 Claims

The Contractor shall notify the Owner within 24 hours of any claims or alleged claims received by the Contractor covered by any of the policies of insurance required in this Agreement. The Contractor shall provide a written copy of the claim or alleged claim to the Owner within 3 days of the Contractor's receipt of the claim or alleged claim. If a claim is settled to the satisfaction of the claimant, the Contractor shall submit a copy of the claimant's release to the Owner.

If a claim or alleged claim is rejected by the Contractor and/or its insurance company, the Contractor shall immediately report this fact to the Owner.

Should 30 days elapse after the claim or alleged claim has been received by the Contractor, and the Contractor is not able to report a settlement or rejection of the claim, it shall report to the Owner the steps being taken with respect to the claim.

Without limiting the foregoing, the Contractor shall notify in writing the County Risk Manager of any paid or incurred claims which may impair annual aggregate or general liability.

#### 5.1.9 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either: the insurer shall reduce to a maximum of \$250,000.00 or eliminate such deductibles or self-insured retentions with respect to the Owner, or the Contractor shall provide evidence of collateral provided to insurers or procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses within the deductible or self-insured retention amount. Any self-insured retention or deductible amount on the policy shall not reduce the amount of collectible limits or liability.

#### 5.1.10 Subcontractors

The Contractor shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates, policies and endorsements for each Subcontractor the Contractor intends to use. If a Subcontractor does not take out insurance in its own name and the Contractor wishes to provide insurance protection for such Subcontractor and such Subcontractor's employees, the Contractor shall either (a) procure appropriate policies in the name of the Subcontractor, or (b) cause a rider or riders to be attached to the Contractor's policies which shall identify the Subcontractor thereby covered; provided, however, in the case of the latter option, such a rider need not be attached to the Contractor's workers' compensation policy if such policy by its terms is sufficiently broad to cover the employees of all Subcontractors performing Work under the Contract Documents. Except as otherwise approved by the Owner in writing, Limits of Liability and coverage scope must be at a minimum as stringent as required of the Contractor by the Contract Documents. All Work performed for the Contractor by any Subcontractor shall be pursuant to an appropriate agreement between the Contractor and the Subcontractor which shall contain provision that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance as provided herein.

- 5.2 Indemnification--The Contractor, to the fullest extent not expressly prohibited by law, shall defend, indemnify and save harmless the Owner, the Architect, the Construction Manager (if any), and their respective officials, officers, employees and agents from and against any and all liabilities (foreseeable or unforeseeable), penalties, fines, forfeitures, demands, claims, causes of actions, suits, judgments, and costs and expenses incidental thereto, (including, without limitation, amounts paid pursuant to investigations, defense

or settlements, and reasonable attorneys' fees), which any or all of them may hereafter suffer, incur, be responsible for, or pay out as a result of but not limited to:

- a) Bodily injury (including sickness, disease or death) to any person including but not limited to, the Contractor's employees or its representatives while on the site of the Project; or
- b) Actual or alleged damage (including loss of use) to any property (public or private, including the Project or any other property on the Project site); or
- c) Contamination of or adverse effects on the environment arising directly or indirectly out of or in connection with the performance of the Work, including but not limited to any hazardous or toxic waste, substance, or constituent of any substance subject to regulation under CERCLA, RCRA, TSCA, and other Federal and state authorities that is spilled, released, threatening to release, or disposed of or destroyed by the Contractor or its Subcontractors on or off the site of the Project or while in transport to or from the site; or
- d) Any violation or alleged violation of laws and regulations, arising out of or in any way connected with the Work, caused in whole or in part by the Contractor, any Subcontractor or supplier or any representatives of the Contractor. The Contractor shall not be required to indemnify the Owner against losses resulting from a breach of this Agreement by the Owner or its other agents and contractors, or resulting from negligence, misconduct or violation of laws on the part of the Owner or its other agents and contractors.

The Contractor further agrees to obtain, maintain and pay for such liability insurance coverages and endorsements as will insure the provisions of this paragraph. Furthermore, the Contractor agrees to be liable for and to indemnify and reimburse the Owner for all legal fees and disbursements paid or incurred to enforce the provisions of this paragraph. The indemnification obligations under this paragraph shall not be limited in any way by the amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefit acts, other employment benefit acts, or the amount of insurance carried or recovered.

The Owner acknowledges that hazardous or toxic waste, material, chemicals, compounds, or substances, or other environmental hazards, contamination or pollution (referred to hereinafter as "environmental hazards") may be present at the Project site that were not created, generated, or released at the Project site by the Contractor or its Subcontractors, agents or employees, acting alone or in concert with others. Unless the remediation, abatement or handling of such environmental hazards is part of the scope of the Work under this Agreement, then upon the discovery of such environmental hazards, the Contractor shall immediately, and in no event more than three (3) days later, give notice to the Owner of the environmental hazards before they are disturbed. The Owner and the Architect shall thereupon promptly investigate the environmental hazards, and make such changes in the Drawings and/or Specifications as they may find necessary to abate, remediate, isolate or handle the environmental hazards. Any increase or decrease in the Contract Price or the Contract Time resulting from such changes shall be adjusted in the manner provided for herein for adjustments as to extra and/or additional Work and changes. It is agreed that the Contractors shall have no liability under this Agreement for

any environmental hazards existing prior to the date that Work commences under this Agreement unless the Contractor or its Subcontractors, agents or employees, acting alone or in concert with others, by their own negligence or misconduct, release, or expose the Owner or third parties to the environmental hazards.

The provisions of this paragraph shall survive the termination or cancellation or completion of this Agreement.

## ARTICLE 6. OTHER RECORD DOCUMENTS AND SUBMITTALS

- 6.1 The Architect shall furnish to the Contractor \_\_\_\_\_ number of copies of the Drawings and Specifications. Additional copies of the Drawings and Specifications may be obtained at the cost of reproduction and handling.
- 6.2 The Contractor shall submit to the Architect all Submittals required by the Contract Documents. The Contractor shall submit three (3) reproducible prints of all shop drawings plus the number of copies sufficient for his requirements. The Contractor shall submit samples in quantities required by the Contract Documents. The Contractor shall submit product data in five (5) copies, plus the number of copies sufficient for the Contractor's requirements. All shop drawings shall be reviewed by the Contractor and shall bear the Contractor's stamp of approval before being forwarded to the Architect. Submittals shall be submitted in such time as to not cause delay to the Work or any part thereof and in accordance with the Contract Construction Schedule and Submittal Register. The Architect shall review the Submittal with reasonable promptness, noting desired corrections, if any. The Architect shall retain two (2) copies of the Submittal and shall return the balance of the reviewed Submittal to the Contractor for action. The Contractor shall furnish any corrected reviewed Submittal to the Architect. The Architect shall retain two (2) copies of the corrected Submittal and will return the balance of the reviewed submittal to the Contractor.

No substitutions will be accepted after the bids have been received.

The Contractor acknowledges that the processing of shop drawings and other Submittals is directly impacted by the clarity, completeness, and accuracy of said documents and that it is the Contractor's responsibility to (a) review and coordinate each Submittal with other related or affected Work and (b) approve each Submittal before submitting same to the Architect for approval.

- 6.3 No substitutions and no deviations from any requirement of the Contract Documents shall be deemed allowed unless the Contractor has specifically informed the Architect in writing of such deviations at the time of submittal and the Architect and the Owner have given written and specific approval to the substitutions or deviations. In proposing a deviation or substitution, the Contractor warrants to the Owner, notwithstanding any review, allowance or approval by the Architect or the Owner, that the deviation or substitution is at least equal to or better in quality and for the purpose intended, and that



the Contractor shall not by reason of any such review, allowance or approval be relieved from any obligation or responsibility contained in the Contract Documents.

- 6.4 Review of submittals by the Architect shall not be construed as relieving the Contractor from responsibility for compliance with terms or designs of the Contract Documents nor from responsibility for errors of any sort in the submittal.
- 6.5 The Contractor shall keep one record copy marked "As-Built" of all Specifications, Drawings, Addenda, Modifications, and Submittals at the Project in good order and annotated at least monthly to show all changes made during the construction process. Such monthly annotations and their approval by the Architect shall be a condition precedent to approval by the Architect of each monthly Request for Payment. Said record copy shall be stored at the Project and fully protected from damage by fire or other hazard. This record copy shall be available to the Architect and the Owner for inspection at all times, and shall be delivered to the Architect for the Owner's purposes prior to the Architect's certifying Substantial Completion of the Work.
- 6.6 At completion of the Project and before Final Payment, the Contractor shall assemble and deliver to the Owner one complete set of all as-built drawings and one complete set of all approved Submittals, product data, and samples which were reviewed by the Architect. These drawings and submittals shall be on paper, or in electronic or other media if required by the Supplementary Conditions. These drawings and submittals shall be categorized and packaged as directed by the Architect.

## ARTICLE 7                    CONTRACTOR

- 7.1 The Contractor shall supervise and direct the Work efficiently and with the Contractor's best skill and attention. Except as may be set forth specifically in the Contract Documents, the Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, and for safety precautions and programs in connection with the Work. The Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents.
- 7.2 The Contractor shall appoint a competent Project Manager and shall keep on the Project at all times during the Work a competent Resident Superintendent and necessary assistants who shall not be replaced without prior written approval by the Owner except under extraordinary circumstances, in which event immediate written notice shall be given to the Owner. The Project Manager and the Resident Superintendent may be the same or different persons. At any time, the Owner, in its sole and absolute discretion, may require the Contractor to replace the Project Manager or Resident Superintendent with an experienced and competent person or persons upon seven (7) days written notice from the Owner to the Contractor. Such replacement shall be at the Contractor's expense and at no cost to the Owner.

Both the Project Manager and the Resident Superintendent shall have authority to act on behalf of the Contractor, and instructions, directions or notices given to either of them shall be as binding as if given to the Contractor.

- 7.3 The Contractor shall provide sufficient competent and suitably qualified personnel, equipment, and supplies to lay out the Work and perform construction as required by the Contract Documents. The Contractor will at all times maintain good discipline and order at the site, and will comply with all applicable OSHA standards.

Any person employed by the Contractor, by any Subcontractor, or by any Sub-subcontractor who, in the opinion of the Architect or the Owner, does not perform its Work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Owner or Architect, be removed forthwith by the Contractor, Subcontractor, or Sub-subcontractor employing such person without cost to the Owner, and shall not be employed again in any portion of the Work without the prior written approval of the Owner or Architect.

Should the Contractor fail to remove such person or persons or fail to furnish suitable and sufficient personnel for the proper prosecution of the Work within three (3) days after written order, the Owner may withhold further payment by written notice until compliance with such order.

- 7.4 If, in the opinion of the Architect or the Owner, any Subcontractor on the Project is incompetent or otherwise unsatisfactory, such Subcontractor shall be replaced by the Contractor with no increase in the Contract Price if and when directed by the Architect or Owner in writing.

- 7.5 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools appliances, fuel, light, heat, and all other facilities and incidentals necessary for the execution, maintenance, initial operation, and completion of the Work, other than those specifically excluded by the Contract Documents and to be furnished by the Owner or others. When use or storage of hazardous materials or equipment or methods of more than ordinary risk are necessary in accomplishing the Work, the Contractor shall give the Owner and Architect reasonable advance notice.

If any materials are to be furnished or installed by the Owner or others under the terms of the Contract Documents, said materials shall be made available to the Contractor at the location(s) specified in the Contract Documents. All costs of handling, transportation from the specified location to the Project, storage, and installing of Owner-furnished materials shall be included in the Contract Price. The Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies which may occur during the Contractor's handling, storage, or use of such Owner-furnished materials. The Owner shall deduct from any monies due or to become due the Contractor any cost incurred by the Owner in making good any such damage, loss, or deficiency.

All equipment which is proposed to be used in the Work shall be of sufficient size and in such mechanical condition as to meet the requirements of the Work and produce a satisfactory quality of work. Equipment used on any portion of the Work shall be such that no injury to previously completed Work, adjacent property, or existing facilities shall result from its use.

When the methods and equipment to be used by the Contractor accomplishing the Work are not prescribed in the Contract Documents, the Contractor shall be free to use any methods or equipment that will accomplish the Work in conformity with the requirements of the Contract Documents.

When the Contract Documents specify the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized in writing by the Architect. If the Contractor desires to use a method or type of equipment other than that specified in the Contract Documents, the Contractor may request authority from the Architect to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it shall be on the condition that the Contractor shall be fully responsible for producing Work in conformity with the requirements of the Contract Documents. If, after trial use of the substituted methods or equipment, the Architect determines that the Work produced does not meet the requirements of the Contract Documents, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining Work with the specified methods and equipment at no additional cost to the Owner. The Contractor shall remove any deficient Work and replace it with Work of specified quality, or take such other corrective action as the Architect may direct. No change in the Contract Price or in Contract Time shall be made as a result of authorizing a change in methods or equipment under this paragraph.

- 7.6 All materials and equipment shall be new, except as otherwise provided in the Contract Documents. When special makes or grades of material which are normally packaged by the supplier or manufacturer are specified or approved, such materials shall be delivered to the Project site in their original packages or containers with seals unbroken and labels intact.

Materials shall be so stored as to assure the preservation of their quantity, quality and fitness for the Work. Stored materials, even though approved before storage, may again be inspected by the Architect or the Owner prior to their use in the Work and shall be required to meet the requirements of the Contract Documents at the time they are incorporated into the Work. Stored materials shall be located so as to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the Architect and Owner. Materials to be stored at the Project or on the Owner's property shall not create an obstruction to the Owner's or other contractor's reasonable activities. Private property shall not be used for storage purposes without written approvals consistent with the provisions of paragraph 20.3 of these General Conditions. The

Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the Owner a copy of the property owner's permission. All storage sites on private or the Owner's property shall be restored to their original condition by the Contractor at its entire expense, except as otherwise agreed to (in writing) by the owner or lessee of the property.

- 7.7 All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processor, except as otherwise provided in the Contract Documents.
- 7.8 The Contractor will be fully responsible for all acts and omissions of its Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that the Contractor is responsible for the acts and omissions of the Contractor's own employees. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor or supplier and the Owner or the Architect, or any obligation on the part of the Owner or the Architect to pay or see to the payment of any money due any such Subcontractor or material furnisher except as may otherwise be required by law. The Owner or the Architect may furnish to any Subcontractor or supplier, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work done.
- 7.9 The divisions and sections of the Specifications and the identifications of any Drawings shall not control the Contractor in dividing the Work among Subcontractors.
- 7.10 The Contractor agrees to bind specifically every Subcontractor to the terms and conditions of the Contract Documents for the benefit of the Owner and to furnish written evidence thereof to the Architect and the Owner within seven (7) days after written request by the Owner.
- 7.11 The Contractor shall attend job progress conferences and all other meetings or conferences as directed by the Architect. The Contractor shall be represented at these job progress conferences by a representative having the authority of the Project Manager and by such other representatives as the Architect may direct. Job progress conferences shall be open to Subcontractors, suppliers and any others who may contribute beneficially toward maintaining required job progress, and such personnel shall be encouraged by the Contractor to attend. It shall be the principal purpose of job progress conferences to effect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the Project on schedule and to complete the Work and the Project by the specified Completion Dates. The Contractor shall be prepared to assess progress of the Work as required in the Contract Documents and to recommend remedial measures for correction of progress as may be appropriate. The Architect shall preside as chairman and arrange for minutes to be taken and circulated.

In the event that the prosecution of the Work is discontinued for any reason, the Contractor shall notify the Architect and the Owner at least forty-eight (48) hours in advance of resuming operations.

Should the terms of the Contract Documents require completion of one or more portions of the Work for the Beneficial Occupancy of the Owner prior to completion of the entire Work, the Contractor shall complete such portion(s) of the Work on or before the date specified. Such completion shall include the obtaining of all government or other permits, permission, and/or approvals necessary to occupancy. The Contractor shall independently estimate the difficulties involved in arranging the Work to permit such Beneficial Occupancy and shall not claim any additional compensation or time extension by reason of any delay or increased cost due to completing such portion(s) of the Work. The Owner's possession and use of such portion(s) of the Work shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. The Owner shall be responsible for the security, maintenance, utilities, and insurance of all portions of the Work completed and beneficially occupied by the Owner.

- 7.12 The Contractor shall pay all license fees and royalties, and assume all costs incident to the use of any invention, design process, or device which is the subject of patent rights or copyrights held by others, except for inventions, design processes, or devices specified by the Architect in the Contract Documents. The Contractor shall indemnify and hold harmless the Owner, the Architect, and anyone directly employed by any of them, from and against all claims, damages, losses and expenses, including attorney's fees and costs of defense, arising out of any infringement or alleged infringement of such rights during or after completion of the Work, and shall defend all such claims in connection with any actual or alleged infringement of such rights.
- 7.13 The Contractor shall secure and pay for all permits, including without limitation construction permits and licenses, and will pay all governmental charges and inspection fees necessary for the prosecution of the Work.
- 7.14 The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work and shall protect and indemnify the Owner, the Architect, and their respective officials, officers, agents, employees or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or by the Contractor's employees, Subcontractors, Sub-subcontractors, or their employees.
- 7.15 The Contractor shall be responsible for the entire site of the Project and for its reasonable and necessary protection and security as required by laws or ordinances governing such conditions, or by custom or sound construction practices, and shall share such responsibilities for protection of property at the site as may be directed by the Contract Documents and the Owner or Architect. The Contractor shall be responsible for any damage to the Owner's property, or that of others, by the Contractor or the Contractor's employees, Subcontractors, Sub-subcontractors, or their employees or agents, and shall

make good such damages. The Contractor shall be responsible for and pay for any such claims made against the Owner.

- 7.16 The Contractor shall protect all landscaping designated to remain in the vicinity of the operations and barricade all walks, roads, and areas as necessary to keep the public away from the construction.
- 7.17 The Contractor shall provide cover and/or protect all portions of the Work and provide all materials necessary to protect the Work whether performed by the Contractor or any of the Subcontractors or Sub-subcontractors. Any Work damaged through the lack of proper protection, or from any other cause, shall be repaired or replaced without extra cost to the Owner or extension to the Contract Time.

The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective effort prosecuted day by day, with adequate equipment and forces so that the Work is maintained in satisfactory condition at all times. All costs of maintenance shall be included in the Contract Price and the Contractor will not be paid an additional amount for such effort. Should the Owner or Architect observe that the Contractor at any time has failed to maintain the Work as provided herein, the Architect may immediately notify the Contractor of such non-compliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. Should the Contractor fail to properly respond to the Architect's notification, the Owner may, at the Contractor's expense, take such action as it may deem appropriate to remedy the defective maintenance, including suspension of the Contractor's Work or any part thereof. Any such expense incurred by the Owner shall be deducted from monies due or to become due the Contractor.

Parking lots, streets, and walks connecting to the Project area shall at all times be protected by the Contractor from deposits of mud, sand, stone, litter, or debris in any form.

Pedestrian traffic areas around the construction limits must be maintained in a clean and safe condition at all times with required barricades. When excavation or other operations outside the Project limits is required, the Contractor shall, immediately following that work, return the area to its original condition.

All catch basins and storm drain lines in the vicinity of the Project site shall be protected at all times from entry of dirt, rubble and other debris. The residue from the cleaning of trucks, wheelbarrows, concrete buggies, etc. must be prevented from entering the drainage system, and if cleaning is done, the residue must be contained and removed from the Project site with other refuse.

- 7.18 No burning of refuse or debris shall be allowed inside or around the Project during the course of construction without prior written authority from authorities having jurisdiction and the Owner.
- 7.19 The Contractor shall provide for and maintain necessary safety measures and safety programs for the protection of its employees and other persons at the Project site, and shall comply at all times with the requirements of the most current edition of the CAGC Safety and Health Manual [or the AGC Accident Prevention Manual in Construction], or the equivalent requirements of the Contractor's safety program, and shall fully comply with all Federal, State, and local laws, rules, regulations, and building code requirements so as to prevent accidents or injuries to persons on or about the Project site. The Contractor shall clearly mark or post signs warning of existing hazards, and shall barricade excavations, elevator shafts, stairways, floor and wall openings and similar hazards. The Contractor shall protect against damage or injury resulting from falling materials, and shall maintain all protective devices and signs throughout the progress of the Work.

All trenches, excavations, or other hazards in the vicinity of the Work shall be well barricaded, and properly lighted at night. When Work requires closing of an area normally used by the Owner or the public, the Contractor shall furnish, erect, and maintain temporary barricades, and properly light the area. The Contractor shall comply with any directions and public authorities in this respect.

- 7.20 The Contractor shall adhere to the rules, regulations, and interpretations of the North Carolina Department of Labor's Occupational Safety and Health Standards for the Construction Industry (29 CFR Part 1926 as adopted in 13 NCAC 07F.0201, including 29 CFR Part 1910 General Industry Safety and Health Standards applicable to construction) and N.C. Gen. Stat. §95-126 through 155 (Occupational Safety and Health) as well as all revisions and amendments to such standards or statutes as may occur throughout the performance of the Work.
- 7.21 Any land-disturbing activity performed by the Contractor in connection with the Project shall comply with all erosion control measures set forth in the Contract Documents and any additional measures which may be required in order to ensure that the Project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15 North Carolina Administrative Code, Chapter 4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 NCAC 4A, 4B, and 4C), and as may be revised or amended in the future. Upon receipt of notice that a land-disturbing activity is in violation of said Act, the Contractor shall be responsible for ensuring that all steps or actions necessary to bring the Project in compliance with said Act are promptly taken. The Contractor shall be responsible for all penalties assessed pursuant to N.C. Gen. Stat. 113A-64 with respect to its Work, and shall indemnify and hold harmless the Owner from all costs and expenses, including attorney's fees and costs of defense, arising out of or related to the enforcement of the Act against any party or person described in this Article.

- 7.22 The Contractor shall designate a responsible officer or employee as safety inspector, whose duties shall include accident prevention on the Project as well as implementation of the Contractor's safety measures and safety programs on the Project. The name of the safety inspector shall be made known to the Architect and the Owner at the pre-construction conference.
- 7.23 In emergencies affecting the safety of persons, the Work, or property at the Project site or adjacent thereto, the Contractor is obligated to act in the Contractor's discretion to prevent threatened damage, injury, or loss. As soon as practicable, the Contractor shall notify the Architect and the Owner of such emergency. The Contractor shall give the Architect and the Owner prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused by such emergency. If the Contractor believes that additional work done in an emergency entitles the Contractor to an increase in the Contract Price or an extension of the Contract Time, the Contractor may make a claim therefore as provided in Articles 14 and/or 15 of these General Conditions.
- 7.24 The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by the Work. At least weekly and at the completion of the Work, the Contractor shall remove all waste materials and rubbish attributable to the Contractor's Work from and about the Project. At the completion of the Work, the Contractor shall remove all tools, construction equipment, machinery, and surplus materials. The Contractor shall leave the Work in condition for occupancy by the Owner such that no cleaning or other operations are required. Material cleared from the Project and deposited on adjacent property shall not be considered as having been disposed of satisfactorily. If the Contractor fails to keep the Project clean and free of waste materials or rubbish, fails to satisfactorily clean-up weekly or at the completion of the Work, the Owner may do so and the costs thereof may be deducted from any amounts due or to become due the Contractor.
- 7.25 Utilities, temporary facilities, and signs shall be provided as described in the Contract Documents. Absent a contrary direction in any Supplementary Conditions, the Contractor shall pay all bills for its consumption of water, electricity, or other public utility service to the Project site.
- 7.26 The Contractor shall indemnify and hold the Owner, the Architect, the Architect's consultants, and their respective officers, agents, and employees harmless against all costs, damages, and expenses, including attorney's fees and costs of defense, arising out of claims by any separate contractor or by any Subcontractor, Sub-subcontractor, or supplier engaged by or employed by the Contractor or employed by any of the Subcontractors claiming through him, including without limitation damages, losses, and expenses arising out of or relating to any inconvenience, delay, interference, or other action or non-action of the Contractor or the Contractor's Subcontractors on the Project.



The Contractor acknowledges that should the Contractor or any of the Contractor's Subcontractors be damaged by any breach of contract by any other separate contractor on the Project, the Contractor may invoke applicable dispute resolution procedures with said other contractor or bring a direct civil action against said other contractor. The Contractor hereby expressly agrees that neither the Owner nor its officers, agents, or employees shall have any liability of any kind or nature whatsoever to the Contractor, its Subcontractors, Sub-subcontractors, or suppliers arising out of or relating to any breach, inconvenience, delay, interference, or other action or non-action by any other separate contractor. The Contractor covenants not to sue the Owner for any loss or damage caused by an breach, inconvenience, delay, interference or other action or non-action by any other separate contractor, notwithstanding whatever rights at law the Contractor might have to bring a civil action against the Owner for any breach, inconvenience, delay, interference, or other action or non-action by any other separate contractor. The Contractor agrees to look exclusively to the other contractor for relief or remedy.

Nothing contained herein or appearing anywhere in the Contract Documents shall obligate or require the Owner to exercise any right or privilege, or to take any action or to refrain from taking any action under any contract it may have with any other contractor or party to the Project for the benefit of the Contractor or any Subcontractor, sub-subcontractor or supplier claiming through the Contractor.

- 7.27 Prior to completion of the Work and Final Payment of the Contract Price, excepting only those portions of the Work deemed accepted in accordance with the Contract Documents, the Contractor shall have charge and care of the Work, and shall take every precaution against injury or damage to any party due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the Work. The Contractor shall, as required by the Owner, replace, rebuild, repair, restore, and make good all injury or damage to any portion of the Work occasioned by any of the above causes before Final Completion and shall bear the expenses thereof.
- 7.28 In the event that the Work, or any portion thereof, is suspended at any time pursuant to an order of the Owner, the Contractor shall obey all instructions of the Owner regarding storage of materials, drainage, protection of the Work, and erection of temporary structures during the suspension period.
- 7.29 The Contractor shall be responsible for the coordination of itself and any Subcontractors or Sub-subcontractors, both as to space and time. The Contractor shall coordinate the Contractor's Construction Schedule and all construction activities. The Contractor shall also coordinate close-out of the Project, including but not limited to all testing, inspection, certifications, and approvals required by public agencies.

The Contractor shall notify the Architect and the Owner promptly of any event or condition which could affect the conduct or progress of the Work and shall cooperate fully with all other separate contractors on the Project site.

- 7.30 The Owner hereby delegates to the Contractor all of its duties to coordinate and to expedite the Work not expressly reserved to the Owner by other provisions of the Contract Documents.
- 7.31 All Work performed pursuant to the Contract Documents shall conform in all respects to the North Carolina State Building Code and all other state, local, and national codes in effect at the time of and applicable to this Work.
- 7.32 Any mechanical or electrical work such as sleeves, inserts, chases, etc. located in the Work of the Contractor for general work shall be built in by the Contractor. Any Subcontractors used for this work shall operate under the supervision of the Contractor
- 7.33 The Contractor shall be responsible for permanently fixed service facilities and systems in use during progress of the Work and shall strictly adhere to the following procedures:
- a) Prior to acceptance of the Work by the Owner, the Contractor shall remove and replace any part of the permanent building systems damaged through use during construction.
  - b) Temporary filters shall be installed in each of the heating and air conditioning units, return air grilles, and other locations to prevent intrusion of dust, dirt, and debris during construction. Temporary filters shall be removed and replaced with new filters immediately prior to Substantial Completion.
  - c) Extra effort shall be maintained to keep the building clean and under no circumstances shall air systems be operated if finishing operations are creating dust in excess of what would be considered normal if the building were occupied.
  - d) When the permanent lighting system is used during construction, lamps shall be replaced and shall be new on the date of Substantial Completion.

## ARTICLE 8 OWNER

- 8.1 The Owner shall issue communications and notices to the Contractor through the Architect to the extent contemplated by the Contract Documents.
- 8.2 In case of termination of the employment of the Architect, the Owner shall appoint as Architect a qualified person who shall have and assume all rights and duties held by the original Architect.

- 8.3 The Owner shall have the right to take possession of and use any portion of the Work notwithstanding the fact that the time for completion of such portion of the Work may not have expired, but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents.
- 8.4 A waiver on the part of the Owner of any breach of any part of the Agreement by the Contractor shall not be held to be a waiver of any other or subsequent breach.
- 8.5 The Owner shall pay all permanent acreage fees, governmental impact fees, and meter deposits for permanent utilities.

#### ARTICLE 9 CONSTRUCTION MANAGER

- 9.1 The Owner may employ one or more Construction Managers for the purpose of assisting the Owner, the Architect, and the Contractor in developing and administering budgets and cost controls, in evaluating constructability and value engineering proposals, in establishing and maintaining a critical path method (CPM) schedule, in coordinating and/or expediting the Work with other projects being constructed by the Owner or others adjacent or near the Work, or for such other purposes as the Owner may deem appropriate. From time to time, the Owner may identify such Construction Manager(s) to the Contractor in writing identifying any tasks assigned to such Construction Manager(s).

#### ARTICLE 10 ARCHITECT

- 10.1 The Architect is charged with responsibility for preparation and interpretation of the Contract Documents. The Architect's decisions relating to aesthetic matters shall be final.
- 10.2 All Work completed under the Contract Documents shall be subject to review by the Architect. No Work is to be covered without the Architect's review or prior authorization. Any Work so covered without the Architect's review or prior authorization shall be uncovered at the Contractor's expense. The Contractor shall notify the Architect in writing at least twenty-four (24) hours in advance of covering any Work.
- 10.3 The Architect shall not be responsible for the construction means, methods, techniques, sequences, procedures, or the safety precautions and programs incident thereto, and shall not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents, but shall be entitled to enforce any requirements in the Contract Documents specifying particular means, methods, techniques, sequences, or procedures.
- 10.4 The Architect shall be an Owner's agent during the construction period. The duties, responsibilities and authority of the Architect as the Owner's representative during construction are as set forth in the Contract Documents.

## ARTICLE 11 TESTING AND SURVEYING

- 11.1 Laboratory and field tests to determine compliance of construction with the Contract Documents shall be made by the Owner or testing consultants employed by the Owner except those required elsewhere in the Contract Documents to be paid for by the Contractor. The costs and expenses of providing samples for and assistance in any testing shall be borne by the Contractor and are included in the Contract Price. Any Work in which untested materials are used without approval or written permission of the Architect shall be removed and replaced at the Contractor's expense. Work found to be unacceptable or unauthorized will not be paid for and, if directed by the Architect, shall be removed and replaced at the Contractor's expense. Unless otherwise designated, tests in accordance with the cited standard methods of ASTM or other generally recognized or specifically authorized methods which are current on the date of advertisement for bids shall be made at the expense of the Owner; provided, however, in the event that after such testing any Work is found to be defective or does not meet the requirements of the Contract Documents, the costs of retesting such Work and the costs of inspection services shall be paid by the Contractor. Samples shall be taken by a testing laboratory employed by the Owner. All materials being used are subject to inspection, tests, or rejection at any time prior to or during incorporation into the Work. Copies of all Owner test reports will be furnished to the Contractor at its written request. Copies of Contractor test reports shall be furnished to the Architect upon written request.
- 11.2 The Owner shall have the right to deduct the costs of additional testing as described in paragraph 11.1 from any money due or to become due the Contractor; or if no money is due the Contractor, the Owner shall have the right to recover these costs from the Contractor, from its sureties, or from both.
- 11.3 All layouts and surveying shall be accomplished by properly qualified personnel duly licensed in the State of North Carolina.

## ARTICLE 12 SEPARATE CONTRACTS

- 12.1 It is expressly understood that the Owner may deploy its own employees or engage other separate contractors to perform Work as a part of the Project whose work will be performed simultaneously and sequentially with the performance of the Work by the Contractor. It shall be necessary for the Contractor to coordinate construction activities with such other contractors, particularly with respect to access to work areas, storage of materials, and use of elevators and other common facilities. The Contractor shall diligently and in good faith cooperate with the Owner, the Architect, and all other contractors with respect to such matters and shall regularly and faithfully attend any and all meetings called by the Owner or Architect with respect to such matters. Any disputes between the Contractor and any other separate contractor with respect to such matters shall be resolved in accordance with the claim and dispute resolution procedures in the Agreement.

## ARTICLE 13 CONTRACT TIME

- 13.1 Within fourteen (14) days after initial receipt of the Agreement by the Contractor for signatures, the Contractor shall prepare and submit to the Architect and the Owner for review and approval a preliminary Contractor's Construction Schedule for the Work pursuant to the requirements stated in the Contract Documents.
- 13.2 Within fourteen (14) days after initial receipt of the Agreement by the Contractor for signatures, the Contractor shall submit to the Architect a Submittal Register listing all Submittals the Contractor is required to make or proposes to make under the Contract Documents, the dates on which the Contractor proposes to make such Submittals and the dates by which the Contractor reasonably requires a response from the Architect with respect to each Submittal. The dates submitted shall be incorporated into the Contractor's Construction Schedule as Completion Dates when they have been approved or modified by the Owner. The Architect shall not be required to review any Submittal from the Contractor until a Submittal Register acceptable to and approved by the Owner has been submitted by the Contractor.
- 13.3 Not later than thirty (30) days following execution and delivery of the Agreement by the Owner to the Contractor, the Owner shall deliver to the Contractor a Notice to Proceed. The Notice to Proceed shall state a commencement date on which it is expected that the Contractor will begin the Work to be performed under the Agreement. The Contract Time shall be measured from said specified commencement date. The commencement date stated in the Notice to Proceed shall not be earlier than three (3) days after the Notice to Proceed is served on the Contractor.

If, other than by mutual agreement, said specified commencement date is more than thirty (30) days after the date of execution and delivery of the Agreement from the Owner to the Contractor and the Contractor believes said delay justifies an increase in Contract Price and/or an extension of Contract Time, the Contractor may make a claim therefore as provided in Article 14 and/or Article 15 of these General Conditions.

No Work shall be done prior to the date specified in the Notice to Proceed.

The Contractor shall submit a final Contractor's Construction Schedule for approval by the Architect and Owner no later than fourteen (14) days after issuance of the Notice to Proceed. No payments shall be due the Contractor until this schedule is approved by the Architect and Owner.

- 13.4 The Contract Construction Schedule is a Contract Document. The Contractor represents that the Contract Construction Schedule has been reviewed in detail, that the Contractor participated in its preparation, that all of the activities which impact, limit, or otherwise affect the time of completion of the Work are shown in the Contract Construction Schedule and that all of the activities of others which impact, limit, or otherwise affect

the start, duration, or completion of the Contractor's activities are also shown. The Contractor further represents that the Contractor can and will complete each activity within the time shown for that activity. Time is of the essence with respect to each such activity and Completion Date.

- 13.5 If the Contractor submits a construction schedule, progress report, or any other document that indicates or otherwise expresses an intention to achieve completion of the Work prior to any Completion Date required by the Contract Documents or prior to expiration of the Contract Time, no liability of the Owner to the Contractor for any failure of the Contractor to so complete the Work shall be created or implied.
- 13.6 If the Contractor, for reasons beyond the Contractor's control, is delayed in beginning any activity, the Contractor shall, nevertheless, have the same number of days as is shown in the Contract Construction Schedule for the activity, and the affected activity and any succeeding activity that is dependent upon that activity shall be adjusted accordingly; provided that at any time the Owner, by means of a Change Order, may require the Contractor to work overtime, to increase labor forces or to take any necessary or appropriate action to decrease the time required for any activity, and the Contractor shall be entitled to an adjustment in the Contract Price computed in accordance with Article 15 of these General Conditions.
- 13.7 At any time, the Owner may order the Contractor, on seven (7) days written notice, to begin any activity earlier than the starting date shown on the Contract Construction Schedule.
- 13.8 Should the Contractor fail to start any activity on the start date shown in the Contract Construction Schedule or as it may have been adjusted in accordance with paragraphs 13.6 or 13.7 above, or become delayed, the Contractor shall, without being entitled to any increase in the Contract Price or other compensation, work overtime, increase labor forces or take such other action as may be necessary or appropriate to complete the activity by the Completion Date shown on the Contract Construction Schedule, or as such Completion Date may have been adjusted.
- 13.9 The Architect and the Owner shall monitor progress of the Work at all times and the Contractor shall cooperate with such monitoring and provide any and all information with respect to the progress of the Work and scheduling as the Architect or the Owner may reasonably require.
- 13.10 On a monthly basis, the Contractor shall revise the Contract Construction Schedule, showing any adjustments made in accordance with paragraphs 13.6 or 13.7, above, by any Change Order, the progress of the Work, and any days gained or days lost with respect to any activity, and shall furnish copies thereof to the Architect and the Owner.

- 13.11 Should any monthly revision of any Contract Construction Schedule show that the Contractor is behind on any activity, the late completion of which could delay Substantial Completion of the Work, the Owner shall be entitled to withhold from the next Progress Payment due the Contractor an amount not exceeding the amount the Owner would be entitled to in Liquidated Damages, should Substantial Completion be delayed the same number of days that the Contractor is currently behind schedule. If, subsequently, the Contractor's progress, as shown by any succeeding monthly revision to the Contract Construction Schedule, is such that the anticipated delay no longer exists, the Owner shall pay with the Progress Payment next due to the Contractor such amounts as have been withheld in accordance with this paragraph.
- 13.12 The Owner shall have the right to perform Work, hire and employ labor and craftsmen, rent equipment, subcontract with other parties, or do anything that the Owner deems necessary or appropriate to remedy or cure any delay by the Contractor in the progress of the Work. Such action by the Owner shall not, in any way, affect, void or limit any warranty, guaranty or other responsibility of the Contractor under the Contract Documents. Such action may be taken by the Owner only after three (3) days written notice to the Contractor. All costs incurred by the Owner in taking any such action shall be charged to the Contractor and deducted from any amounts remaining due under the Agreement.
- 13.13 The Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Price) for delays arising from unforeseen causes beyond the control and without the fault or negligence of the Owner, the Architect, the Contractor or the Contractor's Subcontractors as follows:
- a) Labor disputes and strikes that directly impact the critical path activities of the Contract Construction Schedule;
  - b) Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed Work or stored materials.
  - c) Acts of the public enemy; acts of the State, Federal, or local government in their sovereign capacities.
  - d) Abnormal inclement weather as defined in Article 13.14.
- 13.14 On any day that the Contractor considers that the Project is delayed by adverse weather conditions, the Contractor shall identify in writing to the Architect the adverse weather conditions affecting each activity, the specific nature of the activity affected, the number of hours lost, and the number of and identity (by responsibility or trade) of workers affected and shall obtain from the Architect written recognition of the delay. The time for performance of this Contract includes an allowance for a number of calendar days which may not be suitable for construction Work by reason of adverse weather. The

Contract Time will be extended only if the number of calendar days of adverse weather recognized by the Architect exceeds the number of inclement weather days set forth below, and the Contractor demonstrates how this adverse weather impacts activities on the critical path of the Contract Construction Schedule. The Contract Time may also be extended for weather reasons if excessive rain necessitates the need for a delay to allow for drying; the determination of the need for and the number of drying days will be made by the Project's geotechnical/soils testing company.

<u>Month</u>	<u>Number of Days</u>
January	10
February	9
March	10
April	9
May	10
June	10
July	11
August	10
September	7
October	7
November	8
December	9

- 13.15 If the Contractor believes that the progress of the Work has been adversely affected by adverse weather recognized by the Architect during a particular month, the Contractor shall submit a written request for extension of time to the Architect. Such a request for time extension of the Contract Time shall be submitted by the tenth (10th) day of the month following that month in which the adverse weather is encountered. The request shall include, but is not limited to, the following information:
- a) Detailed description of weather's effect on scheduled activities and its net effect on the critical path of the Project, and
  - b) Weather records from the official weather station nearest the Project site and records of actual observation as contained in daily reports, correspondence, or other documentation.
- 13.16 The Contractor specifically recognizes that a delay by the Contractor in achieving any Completion Date can have the effect of delaying the Substantial Completion of the Project. Such delay in achieving Substantial Completion of the Project will necessarily cause damages, losses, and expenses to the Owner, including, but not limited to and by way of illustration only, liquidated damages payable to the Owner, damages payable to other contractors, increased and extended Project overhead, increased fees, increased costs of construction, increased and extended operation costs of other facilities, and



inefficiency and loss of productivity. Such damages, losses, and expenses may be recovered from the Contractor and, if the Contractor is bonded, its surety.

- 13.17 The sum for liquidated damages payable to the Owner is the amount stipulated in the Contract and reasonably estimated in advance to cover the losses to be incurred by the Owner by reason of failure of the Contractor(s) to complete the Project within the time specified in the Contract, such time being in the essence of this Agreement and a material consideration thereof.

#### ARTICLE 14 CHANGES IN THE WORK

- 14.1 Without invalidating the Contract Documents, the Owner may, at any time, or from time to time order additions, deletions, or revisions in the Work. Said additions, deletions, or revisions shall be authorized only by written Change Orders, Construction Change Directives or Field Orders. Upon receipt of a Change Order, Construction Change Directive or Field Order, the Contractor shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any change causes an increase or decrease in the Contract Price and/or an extension or shortening of the Contract Time, adjustments shall be made as provided in Article 14 and/or Article 15 of these General Conditions.

In order to expedite the Work and avoid or minimize delay in the Work that might affect the Contract Price or Contract Time, the Architect may issue a Change Order in the form of a Construction Change Directive which when signed by the Owner and Architect, directs the Contractor to proceed promptly with the Work involved. Any claim for an adjustment in Contract Price or Time, if not defined in the Construction Change Directive, shall be promptly made in writing according to the procedures defined in Article 15.2.

- 14.2 If possible, Work shall not begin on any change or alteration to the Work until a written Change Order is executed settling any change in the Contract Price or Contract Time. In the event the Contractor and the Architect and Owner cannot agree that an adjustment to the Contract Price or the Contract Time is warranted, or cannot agree on the appropriate adjustment to the Contract Price or the Contract Time, in order to expedite the Work and avoid or minimize delay in the Work that might affect the Contract Price or Contract Time, the Contractor shall, if so directed by the Architect in writing, nevertheless proceed with the Work, and any adjustment to the Contract Price or Contract Time shall be negotiated by the parties at a later date, utilizing the dispute resolution procedures under this Agreement if necessary. Any claim for an adjustment in Contract Price or Contract Time, if not defined in the Construction Change Directive, shall be promptly made in writing in accordance with the procedures defined in Article 15.2 of these General Conditions.

- 14.3 The Architect may authorize minor changes or alterations in the Work not involving change in the Contract Price or in the Contract Time and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. Such alterations shall not invalidate the Contract Documents nor release the surety. If the Contractor believes that any minor change or alteration authorized by the Architect entitles the Contractor to an increase in the Contract Price and/or an extension of Contract Time, the Contractor may make a claim therefore as provided in Article 14 and/or Article 15 of these General Conditions.
- 14.4 Except in an emergency endangering life or property, no change shall be made by the Contractor except upon prior written Change Order, Construction Change Directive or Field Order authorizing such change.
- 14.5 Increases in the Contract Price and/or extensions of the Contract Time for additional Work performed by the Contractor shall only be in accordance with a written Change Order or Construction Change Directive signed by the Owner and the Architect. The Contractor shall not be entitled to additional time or to additional compensation for any Work performed or material supplied which is claimed to have been authorized or settled by an "oral" change, or by a "constructive" or "implied" change, or by a course of conduct, or by any action or non-action by the Owner or Architect, or any other persons, or by any means whatsoever other than by a written Change Order or Construction Change Directive for such Work or material signed by the Owner and Architect.
- 14.6 Changes in the Work resulting from emergency shall not invalidate the Contract Documents nor release the surety.
- 14.7 Neither the Owner nor the Architect shall be responsible for verbal instructions which have not been confirmed in writing, and in no case shall such instructions be interpreted as permitting a departure from the Contract Documents unless such instruction is confirmed in writing and supported by a proper Change Order, Construction Change Directive or Field Order, whether or not the cost is affected.
- 14.8 The Owner, in its sole discretion, may require that the Contractor notify the Contractor's sureties of any changes affecting the general scope of the Work or change in the Contract Price, and that the amount of applicable bonds shall be adjusted accordingly. If this requirement is exercised, the Contractor shall furnish proof of such adjustment to the Owner.

If this requirement is exercised, the Change Orders and Construction Change Directives shall require written consent of the Contractor's surety. At the time of signing a Change Order, the Contractor shall be required to certify as follows:

"I certify that all sureties have been notified that my contract has been altered by the amount of this Change Order or Construction Change Directive and that a copy of the

approved Change Order or Construction Change Directive will be mailed to all sureties upon its receipt by me."

If this requirement is exercised, no payment to the Contractor on account of any Change Order or Construction Change Directive shall become due or payable until written evidence of the surety's consent to the Change Order or Construction Change Directive has been furnished to the Owner and Architect, and the furnishing of such written consent is a condition precedent to such payment.

- 14.9 The Contractor shall support all requests for Change Orders with a detailed cost breakdown showing cost of materials, labor, equipment, transportation, other items, Contractor's overhead and profit, and total cost, in accordance with methods defined in this Article, and, if the request seeks an extension of the Contract Time, with a time-related diagram which demonstrates specifically why an increase in construction time is needed.
- 14.10 When a request for a Change Order involves a Subcontractor, the Contractor shall provide quotation from same on Subcontractor's letterhead. The Subcontractor's quote shall list materials, equipment, and labor separately, and show overhead and profit in the manner provided in paragraph 14.9.

## ARTICLE 15 CHANGE OF THE CONTRACT PRICE

- 15.1 The Contract Price constitutes the total compensation payable to the Contractor for performing all Work under the Contract Documents. All duties, responsibilities, and obligations assigned to or undertaken by the Contractor shall be at its expense without change in the Contract Price. The Contract Price may only be changed by a Change Order.
- 15.2 Any claim for an adjustment in the Contract Price shall be in writing. Written notice of any event, action, or non-action which may become the basis of a claim shall be delivered to the Owner and the Architect within three (3) days of the occurrence, or the beginning of the occurrence, of any such event, action or non-action giving rise to the claim. Such written notice is a condition precedent to the making of a claim, and such notice shall describe the basis of the potential claim with reasonable detail and clarity.

A claim shall be made in writing and shall be delivered to the Owner and Architect no later than fourteen (14) days after such notice. The claim shall describe in detail the basis for the claim, with specific reference to any provisions of the Contract Documents, by paragraph, drawing number, or other specific identification, and shall state the amount claimed and how it is calculated. If the Contractor, at the time the claim is made, is unable to state the amount claimed with accuracy, the Contractor shall so state and provide the estimated amount and the basis on which the amount is to be calculated. At the earliest date practicable, but in no event more than thirty (30) days after Contractor's

notice of claim, the Contractor shall supplement the claim with an accurate statement of the amount claimed and how it has been calculated. The Contractor shall provide, in writing, in support of the claim all such explanations, arguments, data, receipts, expert opinions, or other documents or information as the Contractor deems appropriate to be considered in support of the claim. A claim may properly be rejected by the Owner or Architect by reason of the Contractor's failure to submit adequate or accurate documentation or information, except that within seven (7) days after being given notice that the claim has been rejected on this basis, the Contractor may submit additional documentation or information. No claim for a change of the Contract Price shall be considered or granted (except solely at the discretion of the Owner) unless a claim is so made, nor shall the Contractor be entitled to any increase in the Contract Price unless the Contractor has given notice and made such a written claim within the times required. The Owner shall decide, after obtaining the advice of the Architect, whether an increase in Contract Price is warranted, and the amount of such increase shall be determined as provided in paragraphs 15.3 through 15.4, below. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

The Owner shall advise the Contractor of its decision with respect to the claim within fourteen (14) days of its receipt, or of the receipt of additional documentation or information if the absence of such has previously been the basis of rejection of the claim; provided, however, that if, in its sole discretion, the Owner deems that review or consideration of any part of the claim or any matter related thereto by its governing Board is necessary or appropriate, it shall so advise the Contractor and shall provide its decision to the Contractor within seven (7) days after such Board consideration, review or action. Any claim on which the Owner has not provided its decision to the Contractor within the applicable time period shall be deemed denied.

If the Contractor is not satisfied with the decision of the Owner, the Contractor may within seven (7) days of receipt of the Owner's decision initiate the mediation process as described in Appendix A to these General Conditions.

15.3 In determining the amount of a Contract Price adjustment, the parties shall apply the following methods, as appropriate:

- (a) Change in Work: The Owner and the Contractor shall negotiate in good faith and attempt to agree upon the value of any change (extra or decrease) in Work prior to the issuance of a Change Order covering said Work. Such Change Order shall set forth the corresponding adjustment to the Contract Price. In the event the Owner and the Contractor are unable to agree, the Owner shall grant an equitable adjustment in the Contract Price.
- (b) Emergency Work: In the event of emergency endangering life or property, the Contractor may be directed by the Architect to proceed on a time and material basis, whereupon the Contractor shall so proceed and keep accurately, in such

form as may be required by the Architect, a correct account of costs together with all proper invoices, payrolls, and supporting data therefore.

15.4 Where the Contract Price is to be adjusted, the following limitations shall apply in determining the amount of adjustment:

- (a) In the case of extra or emergency work, the Contract Price shall not be increased by more than the reasonable, actual, and documented net cost of the extra or emergency work plus ten percent (10%) of such net cost on Work performed by the Contractor and five percent (5%) thereof on any subcontracted Work for overhead and profit combined.
- (b) In the case of a decrease in Work, the Contract Price shall not be decreased by less than the net cost of the deleted Work plus five percent (5%) of such direct net cost for profit and overhead.

The term 'net cost' as used herein shall include, as applicable, and shall be limited to, all direct labor, direct material, direct equipment, labor burden, sales taxes, shipping and handling charges, permits and fees, and insurance and bond premium adjustments, if any, attributable to the change. All other items of cost shall be considered as overhead and covered by the percentages allowed in sections (a) and (b) of this paragraph.

The Contractor shall provide worksheets or tabulations describing the method by which the direct net cost was calculated, and shall provide all data needed to support the calculation of the direct net cost, all in a form acceptable to the Owner.

15.5 Where the Contract Price is to be adjusted by negotiation, the Owner may authorize and designate the Architect to negotiate with the Contractor on behalf of the Owner; provided, however, any agreement reached between the Contractor and Architect shall be subject to approval by the Owner.

## ARTICLE 16 UNFORESEEN CONDITIONS

16.1 Should the Contractor encounter unforeseen conditions at the Project 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 Agreement, the Contractor shall immediately, and in no event more than three (3) days later, give notice to the Owner and the Architect of such conditions before they are disturbed. The Owner and the Architect 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 in the Contract Price resulting from such changes shall be adjusted in the manner provided herein for adjustments as to extra and/or additional Work and changes. Neither the Owner nor the Architect shall be liable or responsible for additional work, costs, or changes to the Work that could have been reasonably determined from any reports, surveys, and analyses made available for the Contractor's review or that could have been discovered by the Contractor through the performance of its obligations pursuant to the Contract Documents.

## ARTICLE 17                    CORRECTION OF WORK BEFORE FINAL PAYMENT

17.1                    The Owner has the authority to stop or suspend Work, and the Architect has the authority to order Work removed or to order corrections of defective Work or Work not in compliance with the Contract Documents where such action may be necessary to ensure successful completion of the Work.

Any work, materials, fabricated items, or other parts of the Work which have been found by the Owner or the Architect to be defective or not in accordance with the Contract Documents shall be condemned and shall be removed from the Project by the Contractor, and immediately replaced by new Work in accordance with the Contract Documents at no additional cost to the Owner. Work or property of the Owner or others damaged or destroyed by virtue of such condemned Work shall be made good at the expense of the Contractor.

Correction of condemned Work described above shall be commenced by the Contractor within twenty-four (24) hours after notice from the Architect or Owner and shall be pursued to completion. Should the Contractor fail to proceed reasonably with the above-mentioned corrections, the Owner may, three (3) days after the notice specified in the preceding sentence, proceed with correction, paying the cost, including costs of uncovering such condemned Work, of such corrections from amounts due or to become due to the Contractor.

Condemned Work removed shall be the property of the Contractor and shall be removed from the Project by the Contractor within ten (10) days after notice to remove it, and if not then removed, thereafter may be disposed of by the Owner without compensation to the Contractor and the cost of such disposal shall be deducted from amounts due or to become due to the Contractor.

Should the cost of correction of the Work and, if applicable, disposal of the condemned Work by the Owner exceed the amount due or to become due the Contractor, the Contractor and the Contractor's sureties shall be liable for and shall pay to the Owner the amount of such excess.

ARTICLE 18                    CORRECTION OF WORK AFTER SUBSTANTIAL COMPLETION;  
WARRANTIES AND GUARANTIES

18.1                    Neither the final certificate, Final Payment, occupation of the premises by the Owner, any provision of the Contract Documents, or any other act or instrument of the Owner or the Architect shall relieve the Contractor from responsibility for negligence, defective material or workmanship, or failure to comply fully with the Contract Documents.

18.2                    The Contractor shall, at the Contractor's sole cost and expense, make all necessary repairs, replacements, and corrections of any nature or description, interior or exterior, structural or non-structural, that shall become necessary by reason of defective workmanship or materials which appear within a period of one (1) year from the date of Substantial Completion and acceptance of the Project by the Owner; provided, however that notwithstanding the preceding, if any longer guarantee period is specified for any particular materials or workmanship under the Contract Documents, or under any subcontract, or in connection with any manufactured unit which is installed in the Project, or under the laws of the State of North Carolina, the longer guarantee period shall govern.

18.3                    If, within any guarantee period, repairs or changes are required in connection with the Work, which are rendered necessary as the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the Contract Documents, the Contractor shall, promptly upon receipt of notice from the Architect and without expense to the Owner:

- a)                    Completely repair or replace the Work so that it conforms to the Contract Documents;
- b)                    Correct all defects therein;
- c)                    Make good all damage which, in the opinion of the Architect, is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the Contract Documents; and
- d)                    Make good any Work or material, or any equipment or contents disturbed in fulfilling any such guarantee.

If, in fulfilling the requirements of the Contract Documents or of any guarantee embraced therein or required thereby, the Contractor disturbs any work, facility, premises, or construction belonging to the Owner, the Contractor shall restore such disturbed work, facility, premises or construction to a condition satisfactory

to the Owner, and shall guarantee such restored work to the same extent as if it were Work under the Contract Documents.

If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the Owner may have the defects corrected, and the Contractor and the Contractor's sureties shall be liable for all expenses incurred. "Promptly" is defined as within twenty-four (24) hours for systems necessary to normal operation of the building and within seventy-two (72) hours for all other items. All special guarantees applicable to definite parts of the Work that may be shown in or required by Contract Documents shall be subject to the terms of this paragraph during the first year of the life of such special guarantee. Manufacturer's standard guarantees or warranties which do not comply with the time limit specified herein shall be extended by the Contractor automatically without further action on the part of the Owner or Architect.

- 18.4 In the eleventh calendar month after Substantial Completion of the entire Project, and at the request of the Owner, the Contractor, the Owner and the Architect shall make an inspection of the Work for the purpose of identifying defective workmanship and/or materials. If the Contractor, having been requested to do so by the Owner, fails to participate in such inspection, the Contractor shall be conclusively bound by any decision or ruling by the Architect as to any defective workmanship or material and as to the Contractor's responsibility for its repair or replacement.

## ARTICLE 19 OWNER'S RIGHT TO DO WORK

- 19.1 If, during the progress of the Work or during any period of guarantee, the Contractor fails to prosecute the Work properly or to perform any provision of the Contract Documents, the Owner, after three (3) days written notice to the Contractor from the Architect, or from the Owner after Final Payment, may perform or have performed that portion of the Work and may deduct the cost thereof from any amount due or to become due the Contractor. Notwithstanding any action by the Owner under this paragraph, all warranties and bonds given or to be given by the Contractor shall remain in effect or shall be given by the Contractor.
- 19.2 Should the cost of such action by the Owner exceed the amount due or to become due the Contractor, the Contractor and the Contractor's sureties shall be liable for and shall pay to the Owner the amount of such excess.



ARTICLE 20 PARTIAL PAYMENTS

20.1 Within thirty (30) days after initial receipt of the Agreement by the Contractor for signatures the Contractor shall submit to the Architect a Schedule of Values. The Schedule of Values shall indicate the value of the Work, including applicable overhead and profit, for each Division and section of the Project Specifications. The Architect and Owner shall be provided with the Contractor's estimate papers, subcontractor agreements, supplier quotes, or other documents substantiating these values if so requested in writing by the Architect or Owner. The Contractor shall provide the requested documentation within seven (7) days after receipt of the Architect or Owner's written request. The Schedule of Values shall be subject to approval by the Owner, and if the Owner and the Contractor cannot agree upon the Schedule of Values, the Architect shall prepare it, and the Schedule of Values as prepared by the Architect shall be binding on the Owner and the Contractor. No Request for Payment shall be certified by the Architect until the Schedule of Values has been issued and approved.

20.2 Not later than the fifth (5th) day of each calendar month the Contractor shall submit to the Architect a Request for Payment for Work done during the previous calendar month. The Request for Payment shall be in form of AIA Document G702 (latest edition), or other published document approved by the Architect, and shall show substantially the value of Work done (including the value of material delivered to the Project or stored by the Contractor at another site, subject to the conditions hereinafter set forth) during the previous calendar month, and shall sum up the financial status of the Work with the following information:

- a) Total Contract Price, including any adjustment thereto made pursuant to the Contract Documents.
- b) Value of Work completed and materials properly stored to date.
- c) Less amount retained.
- d) Less previous payments.
- e) Current amount due.
- f) Contract Price balance remaining.

The Contractor, upon request of the Architect, shall substantiate the Request for Payment with invoices, vouchers, payrolls, or other evidence.

20.3 When payment is requested or made on account of stored materials, such materials must be stored on the Owner's property at such places and in such a

manner as may be designated by the Architect. However, in the sole discretion of the Owner, with permission in writing from the Architect and Owner and under such circumstances as may be required by the Owner, such materials may be stored in a bonded warehouse. The location and conditions for storage of such materials away from the Owner's property in a bonded warehouse shall be within the sole discretion Of the Owner. Requests for Payment on account of stored materials shall be accompanied by paid invoices, bills of sale, warehouse receipts, or other documentary evidence establishing Owner's title to such materials, evidence that the stored materials are insured against loss and damage, and such other documentation as required by the Architect. Responsibility for the quantity, quality, and condition of such stored materials, whether stored on the Owner's property or away from the Owner's property, shall remain with the Contractor regardless of ownership or title. No payment shall be made on account of materials stored in a bonded warehouse unless the Contractor has acquired written permission from the Architect and the Owner for such storage of materials and has complied with all conditions set forth in such permission regarding such storage of materials in a bonded warehouse.

20.4 Any Request for Payment received by the Architect on or before the fifth (5th) day of the calendar month shall be certified for payment or returned for re-submission to the Contractor on or before the fifteenth (15th) day of the calendar month. The Architect's certification shall be for the amount which was requested or that which the Architect has decided was justly due, and shall state in writing to the Contractor and Owner the reasons for withholding payment of any or all of the amount requested.

20.5 The Architect may refuse to certify all or part of any payment requested for any of the following reasons:

- a) Defective Work not corrected.
- b) Suits, actions, or claims of any character filed against the Contractor, or due to the operations of the Contractor, or information or notice that a suit, action, or claim will be filed or has been made.
- c) Information or notice that a Subcontractor or a supplier has not received payment from the Contractor.
- d) The balance unpaid of the Contract Price is insufficient to complete the Work in the judgment of the Architect or Owner.
- e) Damage to the Owner or another contractor.

f) Inability of the Contractor to meet a Completion Date, including an anticipated failure to meet a Completion Date entitling the Owner to withhold anticipated damages in accordance with paragraphs 13.11 and 13.12 of these General Conditions.

g) Failure to furnish Submittal as required by the Contract Documents on a timely basis in accordance with the Submittal Register.

h) Such other reason as to the Architect may appear prudent, proper, or equitable.

When grounds for withholding certification have been corrected or removed, the Architect shall so certify to the Owner and the Owner shall make any payment due with respect to such certification as a part of its next payment after such certification.

20.6 No certificate of payment issued or progress payment made shall constitute an acceptance of the Work or any part thereof.

20.7 The amount certified by the Architect for payment shall be ninety-five percent (95%) of the value of Work completed and materials stored since the Architect's last certification as shown on the Request for Payment, less any amounts not certified in accordance with paragraphs 20.4 and 20.5, and this amount shall be paid by the Owner on or before the last business day of the month, but payment shall not be past due if paid within fifteen (15) days after certification by the Architect.

20.8 After certification by the Architect (by means of certification for payment of Requests for Payment or otherwise) that the Work is fifty percent (50%) complete, and the Contractor has provided to the Owner the written consent of its sureties to the cessation of further percentage retention, the amount certified for payment with respect to subsequent Requests for Payment may in the discretion of the Owner be one hundred percent (100%) of the value of the Work completed and materials stored since the Architect's last certification as shown on the Request for Payment, less any amounts not certified in accordance with paragraph 20.4; provided, however, that the aggregate of periodic payments shall not exceed ninety-five percent (95%) of the Contract Price.

## ARTICLE 21 FINAL PAYMENT

21.1 Final Payment shall not be due to the Contractor until Final Completion.

- 21.2 Upon Substantial Completion, the Architect shall prepare and submit to the Contractor deficiency lists identifying all portions of the Work which are shown at that time to be incomplete or defective. Within thirty (30) days of receipt of any deficiency list, the Contractor shall complete and correct all items on that list along with all other Work required to achieve Final Completion of the Work. At any time prior to completion of the period of warranty, the Architect may submit to the Contractor supplemental deficiency lists, in which case the Contractor shall complete or correct any and all new items identified on the supplemental deficiency lists within the time period stipulated in paragraph 18.3 of these General Conditions.
- 21.3 The making and acceptance of Final Payment shall constitute a waiver of all claims by the Owner except:
- a) Claims arising from unsettled liens or claims against the Contractor.
  - b) Defective Work or materials appearing after Final Payment.
  - c) Failure of the Contractor to perform the Work in accordance with the Contract Documents.
  - d) As conditioned in the Performance Bond.
  - e) Claims made prior to Final Payment which remain unsettled.
  - f) Amounts due arising under Articles 18 and 28 of these General Conditions.
  - g) Claims for recovery of overpayment based upon incorrect measurement, estimate, or certificate.
- 21.4 The making and acceptance of Final Payment shall constitute a waiver of all claims by the Contractor except those claims previously made in writing pursuant to paragraph 15.2 of these General Conditions and not finally resolved.
- 21.5 The Architect shall not authorize Final Payment until all of the Work under the Contract Documents has been certified by the Architect as completed, proper, and suitable for occupancy and use, and has been approved by all federal, state and local agencies having jurisdiction.
- 21.6 The final Request for Payment shall be identified on its face as such and shall be presented by the Contractor to the Architect within thirty (30) days of completion of the Work. Final payment of the retained amount due the Contractor shall be made by the Owner within thirty (30) days after the later of (i) full and Final

Completion of all Work required of the Contractor by the Contract Documents, and certification of such Work in accordance with paragraph 21.5; (ii) submission of the affidavits and other documentation required by Article 22; (iii) submission by the Contractor of a Request for Payment identified on its face as final and including the Architect's certification.

## ARTICLE 22            CONTRACTOR, SUBCONTRACTOR AND SUPPLIER AFFIDAVIT

22.1            The Final Payment due the Contractor on account of the Contract Documents shall not become due until the Contractor has furnished to the Owner: (A) an affidavit by the Contractor signed, sworn, and notarized to the effect that all payments for materials, services, or for any other reason in connection with the Work or performance of the Contract Documents have been satisfied and that no claims or liens exist against the Contractor in connection with the same; (B) affidavits from each Subcontractor and supplier signed, sworn, and notarized to the effect that (i) each such Subcontractor or supplier has been paid in full by the Contractor for all Work performed and/or materials supplied by it in connection with the Project, and (ii) that all payments for materials, services, and for any other reason in connection with the subcontract or supply contract have been satisfied and that no claims or liens exist against the Subcontractor or supplier in connection therewith; and (C) the written consent of the Contractor's sureties to Final Payment. In the event that the Contractor cannot obtain an affidavit, as required above, from any Subcontractor or supplier, the Contractor shall state in the Contractor's affidavit that no claims or liens exist against such Subcontractor or supplier to the best of the Contractor's knowledge, and that if any appear afterwards, the Contractor shall indemnify and save the Owner harmless for all costs and expenses, including attorney's fees, on account thereof.

## ARTICLE 23            ASSIGNMENTS AND SUBCONTRACTS

23.1            The Contractor shall not assign any portion of this Agreement nor subcontract the Work in its entirety without the prior written consent of the Owner. Except as may be required under terms of the bonds required by the Contract Documents, no funds or sums of money due or to become due to the Contractor under the Contract Documents may be assigned.

## ARTICLE 24            MEASUREMENTS

24.1            Before ordering material or doing Work which is dependent for proper size or installation upon coordination with building conditions, the Contractor shall verify all dimensions and shall be responsible for the correctness of same. No consideration will be given for any claim based on differences between the actual

dimensions and those indicated in the Contract Documents. Any discrepancies between the Contract Documents and the existing conditions shall be referred to the Architect for adjustment before any Work affected thereby is begun.

ARTICLE 25                    CONTRACTOR AND SUBCONTRACTOR AGREEMENTS

25.1                    Within thirty (30) days after initial receipt of the Construction Agreement by the Contractor for signatures, the Contractor shall submit to the Architect and the Owner for acceptance a current list of the names of Subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for any and all portions of the Work. The Contractor shall provide this list at this time even if the Contractor was required to submit a list of proposed Subcontractors with the Contractor's bid. The Architect shall promptly reply to the Contractor in writing stating whether or not the Owner or Architect, after due investigation, has objection to any such proposed person or entity or if it needs additional information to evaluate the persons or entities on the list. Failure of the Architect to reply within ten (10) days after the Contractor has furnished all required information shall constitute notice of no objection.

The Contractor shall not contract with any such proposed person or entity to which the Architect or Owner has made reasonable objection. If the Architect or Owner has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the Architect or Owner has no reasonable objection. The Contractor shall make no substitution for any Subcontractor, person, or entity previously allowed without first notifying the Architect in writing and no substitution may be made if the Architect or Owner makes a reasonable objection to such substitution.

25.2                    The Contractor agrees that the terms of the Contract Documents, including all portions thereof, shall apply to all Subcontractors as if they were the Contractor, and that the Subcontractors shall, by means of their subcontracts, be bound by all the terms of the Contract Documents.

25.3                    Payments to Subcontractors by the Contractor shall be made in accordance with the provisions of N.C. Gen. Stat. §143-134.1.

ARTICLE 26                    USE OF PREMISES

26.1                    The Contractor shall confine apparatus, the storage of materials, the operations of workers, and the disposal of material to limits indicated by law, ordinances, permits, and directions of the Architect, if any.

26.2 The Contractor shall not load or permit any part of the Work to be loaded with a weight that will endanger its safety, intended performance, or configuration.

26.3 The Contractor shall enforce all of the Architect's instructions, including, but not limited to, those regarding signs, advertisements, fires, and smoking.

#### ARTICLE 27 CUTTING, PATCHING AND FITTING

27.1 The Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its several parts come together properly and fit it to receive or to be received by Work shown in or which can be reasonably implied from the Contract Documents.

#### ARTICLE 28 DISPUTE RESOLUTION

28.1 The laws of the State of North Carolina shall apply to the interpretation and enforcement of this Agreement. Any and all suits or actions to enforce, interpret, or seek damages with respect to any provision of, or the performance or nonperformance of, this Agreement shall be brought in the General Court of Justice of North Carolina sitting in Randolph County, North Carolina, and it is agreed by the parties that no other court shall have jurisdiction or venue with respect to such suits or actions. Appendix A shall be a part of the Contract Documents. Prior to initiating an action under this Article, any party to this Agreement shall initiate the mediation process as provided in Appendix A to these General Conditions.

28.2 Any person or firm that expressly or impliedly agrees to perform labor or services or to provide material, supplies, equipment, work, performance or payment bonds, insurance or indemnification for the construction of the Project or the Work shall be deemed a party to this Agreement solely for the purpose of this Article 28. The Contractor, by means of its subcontracts, shall specifically require its Subcontractors to be bound by this Article.

#### ARTICLE 29 TAXES

29.1 The Contractor has included in the Contract Price, and shall pay, all taxes assessed by any authority on the Work or on the labor and materials used therein. The Contractor shall maintain all tax records during the life of the Project and furnish the Owner with a complete listing of all taxes paid by taxing authority, invoice number, date, amount, etc. in a form acceptable to the Owner. The Contractor is required to maintain a file showing taxes paid on the Project for

three (3) years after Final Payment or turn said documents over to the Owner for its files.

29.2 The following is a list of requirements to be followed by the Contractor in maintaining proper records and reporting the North Carolina Sales and Use Tax and Local Sales and Use Tax. The Contractor shall comply fully with the requirements outlined below, in order that the Owner may recover the amount of the tax permitted under the law.

- a) It shall be the Contractor's responsibility to furnish the Owner documentary evidence showing the materials used and sales and use tax paid by the Contractor and by each of its Subcontractors. Such evidence shall be transmitted to the Owner with each pay request regardless of whether taxes were paid in that period covered by the pay request.
- b) The documentary evidence shall consist of a certified statement by the Contractor and by each of the Contractor's Subcontractors individually, showing total purchases of materials from each separate vendor and total sales and use taxes paid to each vendor. Certified statements must show the invoice number, or numbers, covered, and inclusive dates of such invoices.
- c) Materials used from Contractor's or Subcontractor's warehouse stock shall be shown in a certified statement at warehouse stock prices.
- d) The Contractor shall not be required to certify the Subcontractor's statements.

## ARTICLE 30 OPERATION OF OWNER'S FACILITIES

30.1 The Contractor agrees that all Work done under the Contract Documents shall be carried on in such a manner so as to ensure the regular and continuous operation of the adjoining or adjacent facilities. The Contractor further agrees that the sequence of operations under the Contract Documents shall be scheduled and carried out so as to ensure said regular and continuous operation. The Contractor shall not close any areas of construction until so authorized by the Architect. The Contractor shall control operations to assure the least inconvenience to the public. Under all circumstances, safety shall be the most important consideration.

## ARTICLE 31 THIRD-PARTY BENEFICIARY CLAUSE

31.1 It is specifically agreed between the parties executing the Agreement that, with the specific exception set forth paragraph 7.26 of these General Conditions, and that exception only, the Contract Documents and the provisions therein are not intended to make the public, or any member thereof, a third-party beneficiary of



the Agreement, or to authorize anyone not a party to the Contract Documents to maintain a suit for personal injuries or property damage pursuant to the terms of provisions of the Contract Documents.

## ARTICLE 32 MEASUREMENT OF QUANTITIES

32.1 All Work completed under the Contract Documents shall be measured by the Contractor using United States customary units of measurement. The method of measurement and computations to be used in determination of quantities of material furnished and of Work performed under the Contract Documents shall be those methods set forth in the Contract Documents or, if not specifically set forth therein, the method generally recognized as conforming to good engineering practice.

## ARTICLE 33 TERMINATION BY THE OWNER FOR CAUSE

33.1 If the Contractor fails to begin or complete the Work under the Contract Documents within the time specified, or fails to perform the Work with sufficient labor and equipment or with sufficient materials to insure the prompt completion of said Work, or shall perform the Work unsuitably or shall discontinue the prosecution of the Work for three (3) consecutive days, or if the Contractor shall become insolvent, be declared bankrupt, commit any act of bankruptcy or insolvency, allow any final judgment to stand against the Contractor or its affiliated companies unsatisfied for a period of forty-eight (48) hours, make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the Work in an acceptable manner, the Owner may give notice in writing to the Contractor and the Contractor's sureties of such delay, neglect, or default, specifying the same, and if the Contractor within a period of three (3) days after such notice shall not proceed in good faith and with reasonable speed to correct such delay, neglect, or default in accordance with such notice, the Owner shall have full power and authority, to the extent permitted by law, without violating the Contract Documents, to take the prosecution of the Work out of the hands of the Contractor, to appropriate or use any or all materials and equipment at the Project as may be suitable and acceptable, and may enter into an agreement for the completion of the Work or pursue such other methods as in the Owner's sole discretion and opinion shall be necessary or appropriate for the completion of the Work in an acceptable manner. All costs and charges incurred by the Owner in proceeding in accordance with the preceding sentence, including attorney's fees, and all costs incurred by the Owner in completing the Work shall be deducted from any amount due or which becomes due the Contractor. If such costs and expenses incurred by the Owner shall be less than the sum which would have been payable under Contract Documents if it had been completed by the Contractor, then the Contractor shall be entitled to receive the difference, but if

such costs and expenses shall exceed the sum which would have been payable under the Contract Documents, the Contractor and the Contractor's surety or sureties shall be liable to the Owner for and shall pay to the Owner the amount of such excess.

- 33.2 If the Owner terminates the Agreement pursuant to this Article 33 and later it is determined that the Contractor had not substantially failed to perform in accordance with the terms of this Article, then the termination will be considered a termination for convenience under Article 34.

ARTICLE 34           TERMINATION OR SUSPENSION BY THE OWNER FOR  
CONVENIENCE

- 34.1 The Owner may, without cause, order the Contractor to terminate, suspend, delay, or interrupt the Work in whole or in part for such period of time as the Owner may determine.

- 34.2 If the Contractor is subsequently ordered by the Owner to resume the Work, any cost or expenses to which the Contractor may be entitled by reason of the suspension, delay, or interruption shall be recovered by means of a Change Order in accordance with Articles 13 and 14 of these General Conditions and the Contractor's Construction Schedule shall be adjusted in accordance with Article 13 of these General Conditions.

- 34.3 The Owner shall terminate the Work or portion thereof by written notice when the Contractor is prevented from proceeding with the Work as a direct result of an executive order of the President with respect to the prosecution of war or in the interest of national defense.

- 34.4 In the event of termination by the Owner under this Article, the Contractor shall be entitled to receive the reasonable and documented direct costs incurred prior to termination, including the cost of materials purchased for the Work which purchases cannot be canceled or which material cannot reasonably be used by the Contractor on other work, and the cost of closing down the Project in a safe and efficient manner, plus ten percent (10%) thereof for overhead and profit, subject to the following conditions:

- a) When the Contract is terminated before completion of all items of Work, payment shall be made for the actual number of units or items of Work completed at the applicable contract prices, or as mutually agreed for items of Work partially complete. If a mutual agreement cannot be reached, the Owner shall have the authority to make such equitable

adjustment as it deems warranted and the Final Payment shall be made accordingly.

- b) Reimbursement for organization of any Work and moving equipment to and from the job shall be considered when not otherwise provided for in the Contract Documents where the volume of completed Work is too small to compensate the Contractor for those expenses under unit prices. If a mutual agreement cannot be reached, the Owner will have the authority to make such equitable adjustment as it deems warranted and the Final Payment will be made accordingly.
- c) Materials obtained by the Contractor for the Work that have been inspected and accepted by the Architect and that are not incorporated in the Work shall, at the request of the Contractor, be purchased from the Contractor at the Contractor's actual cost as shown by receipted bills and actual costs records at such points of delivery as may be determined by the Owner.
- d) No payment shall be made by the Owner to the Contractor except as herein above provided. No claim for loss of anticipated profits shall be considered or allowed.
- e) Termination of the Contract shall not relieve the Contractor of its responsibilities for any completed portion of the Work nor shall it relieve its sureties of their obligation for and concerning any just claims arising out of the Work performed.

In the event of termination or suspension by the Owner for convenience, the Contractor shall not be entitled to any other compensation, including compensation for lost profit, lost opportunity, or any other direct or consequential cost, loss, or damage.

#### ARTICLE 35            MINORITY BUSINESS ENTERPRISE PROGRAM

35.1            The Contractor shall at all times comply with the latest edition of the Randolph County Minority Business Outreach Plan. All documentation substantiating compliance with the requirements of this program shall be delivered to the Owner and Architect as stipulated in the Contract Documents.

#### ARTICLE 36            GENERAL

36.1            If any provision of the Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

36.2 The titles to Articles herein are for convenience only, are not substantive parts of the General Conditions, and are not to be considered in interpreting the Contract Documents.

END OF GENERAL CONDITIONS OF THE  
CONTRACT FOR CONSTRUCTION



**APPENDIX A**  
**TO GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**  
**DISPUTE RESOLUTION PROCEDURES FOR RANDOLPH COUNTY BUILDING**  
**CONSTRUCTION RENOVATION AND REPAIR PROJECTS**

Table of Rules

**Rule**

- 1. Initiating Mediated Settlement Conferences**
  - A. Purpose of Mandatory Settlement Conferences
  - B. Initiating the Dispute Resolution Process
  
- 2. Selection of Mediator**
  - A. Mediator Listing
  - B. Selection of Mediator
  - C. Disqualification of Mediator
  
- 3. The Mediated Settlement Conference**
  - A. Where Conference is to be Held
  - B. When Conference is to be Held
  - C. Request to Modify Deadline for Completion
  - D. Recesses
  - E. Project Delay
  
- 4. Duties of Parties and Other Participants in Formal Dispute Resolution Process**
  - A. Attendance
  - B. Finalizing Agreement
  - C. Payment of Mediation Fee
  - D. Failure to Compensate Mediator
  
- 5. Authority and Duties of Mediators**
  - A. Authority of Mediator
  - B. Duties of Mediator
  
- 6. Compensation of the Mediator**
  
- 7. Rule Making**
  
- 8. Definitions**
  
- 9. Time Limits**

**RULE 1. INITIATING MEDIATED SETTLEMENT CONFERENCES**

**A. Purpose of Mandatory Settlement Conferences.** Pursuant to G.S. §143-128(f1) and 143-135.26(11), these Rules are promulgated to implement a mediated settlement program designed to focus the parties' attention on settlement rather than on claim preparation and to provide an opportunity for orderly settlement negotiations to take place. Nothing herein is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time prior to or during commencement of the dispute resolution process.

**B. Initiating the Dispute Resolution Process**

1) Any party to a County public construction contract (referred to herein generally as the "Contract") governed by Article 8. Ch. 143 of the General Statutes and identified in G.S. § 143-128(f1) and who is a party to a dispute arising out of the Contract and the construction process in which the amount in controversy is at least \$15,000 may submit a written request to the County for mediation of the dispute.

2) Prior to submission of a written request for mediation to the County, the parties should give notice of any and all claims in accordance with their respective contracts, obtain decisions on the claims as required or allowed by their respective contracts, and attempt to resolve the dispute according to the terms and conditions in their respective contracts. The Mediator may adjourn any mediated settlement conference if the Mediator believes, in his or her sole discretion, that the parties have not satisfied all of the terms and conditions of their respective contracts and that doing so will enhance the prospects for a negotiated settlement.

**C. Condition Precedent to Litigation.** Before any party to a Contract may commence a civil action against the County seeking remedies for breach or non-performance of the Contract by the County, said party must first initiate the dispute resolution process under these rules and attend the mediated settlement conference.

**RULE 2. SELECTION OF MEDIATOR**

**A. Mediator Listing.** A list of Mediators acceptable to the County may be provided upon notice that a party is requesting mediation. The party requesting mediation shall select a Mediator from the designated list. If the County fails to provide a list of acceptable mediators, the list of Mediators shall be deemed to be the list of mediators certified by the North Carolina Dispute Resolution Commission to conduct mediated settlement conferences in the North Carolina Superior Courts.

**B. Selection of a Mediator.** The party requesting mediation shall select a Mediator from the County's list of Mediators and shall file, with the County, a Notice of Selection of Mediator within 21 days of the request for mediation. Such notice shall state the name, address, and phone number of the Mediator selected. If the

Mediator selected is not available or declines to participate for any reason, the requesting party shall select another person from the County's list of Mediators. If the party requesting mediation does not select and designate a mediator within 21 days of the request for mediation, the County shall have the right in its absolute discretion to appoint a mediator from its list of Mediators.

- C. **Disqualification of Mediator.** Any party may request replacement of the Mediator for good cause. Nothing in this provision shall preclude Mediators from disqualifying themselves.

### **RULE 3. THE MEDIATED SETTLEMENT CONFERENCE**

- A. **Where Conference is to be Held.** Unless all parties and the Mediator otherwise agree, the mediated settlement conference shall be held in Randolph County. The Mediator shall be responsible for reserving a place, making arrangements for the conference, and giving timely notice of the time and location of the conference to all attorneys, unrepresented parties and other persons or entities required to attend.
- B. **When Conference is to be Held.** The mediation shall be completed within 90 days after selection of the Mediator.
- C. **Request to Accelerate or Extend Deadline for Completion.** Any party or the Mediator may request the County to accelerate or extend the deadline for completion of the conference. Such request shall state the reasons the extension is sought and shall be served by the moving party upon the other parties and the Mediator. Objections to the request must be promptly communicated to the County and to the Mediator.

The County, with the concurrence of the designated Mediator, may grant the request by adjusting the time for completion of the conference.

- D. **Recesses.** The Mediator may recess the mediation conference at any time and may set times for reconvening. If the Mediator determines the time and place where the conference is to reconvene before the conference is recessed, no further notice is required to persons present at the conference.
- E. **Project Delay.** The mediated settlement conference that results from a construction contract dispute shall not be cause for the delay of the construction project.

### **RULE 4. DUTIES OF PARTIES AND OTHER PARTICIPANTS IN FORMAL DISPUTE RESOLUTION PROCESS**

- A. **Attendance.**
  - 1. All parties to the dispute must designate an official representative to attend the mediation. .



2. "Attendance" means physical attendance, not by telephone or other electronic means. Any attendee representing a party must have authority from that party to bind it to any agreement reached as a result of the mediation.
3. Attorneys representing parties may attend the mediation, but are not required to do so.
4. Sureties and insurance company representatives are required to physically attend the mediation unless the Mediator and all of the other parties to the mediation excuse their attendance or consent to their attendance by telephone or other electronic means.
5. The parties who attend a duly scheduled mediation conference shall have the right to recover their share of the Mediator's compensation from any party or parties who fail to attend the conference without good cause.

**B. Finalizing Agreement.** If an agreement is reached in the conference, the terms of the agreement shall be confirmed in writing and signed by all parties.

**C. Mediation Fees** charged by the Mediator shall be paid in accordance with G.S. § 143-128(f1).

**D. Failure to compensate Mediator.** Any party's failure to compensate the Mediators in accordance with G.S. § 143-128(f1) shall subject that party to a withholding of said amount of money from the party's monthly payment by the County.

Should the County fail to compensate the Mediator, it shall hereby be subject to a civil cause of action from the Mediator for the 1/3 portion of the Mediator's total fee as required by G.S. § 143-128(f1).

## **RULE 5. AUTHORITY AND DUTIES OF MEDIATORS**

### **A. Authority of Mediator.**

1. Control of Conference. The Mediator shall at all times be in control of the conference and the procedures to be followed.
2. Private Consultation. The Mediator may communicate privately with any participant or counsel prior to and during the conference. The fact that private communications have occurred with a participant shall be disclosed to all other participants at the beginning of the conference.
3. Scheduling the Conference. The Mediator shall make a good faith effort to schedule the conference at a time that is convenient with the participants,

attorneys and Mediator. In the absence of agreement, the Mediator shall select the date for the conference.

4. Determining good cause for a party's failure to appear at a scheduled mediation conference.

**B. Duties of Mediator.**

1. The Mediator shall define and describe the following at the beginning of the conference:
  - a. The process of mediation.
  - b. The difference between mediation and other forms of conflict resolution.
  - c. The costs of the mediated settlement conference.
  - d. That the mediated settlement conference is not a trial, the Mediator is not a judge, and the parties retain their legal rights if they do not reach settlement; however, the Mediator will advise all parties that failure to appear at mediation without good cause may result in imposition of sanctions and may be asserted as a bar to lawsuits by claimants who have failed to exhaust this administrative remedy.
  - e. The circumstances under which the Mediator may meet and communicate privately with any of the parties or with any other person.
  - f. Whether and under what conditions communications with the Mediator will be held in confidence during the conference.
  - g. The inadmissibility of conduct and statements as provided by G.S. §7A-38.1(1).
  - h. The duties and responsibilities of the Mediator and the participants.
  - i. That any agreement reached will be reached by mutual consent.
2. Disclosure: The Mediator has a duty to be impartial and to advise all participants of any possible bias, prejudice or partiality.
3. Declaring Impasse: The Mediator may determine at any time during the mediation conference that an impasse exists and that the conference should end.
4. Reporting Results of Conference. The Mediator shall submit a written report to the County and the other parties within 10 days of the conference stating whether or not the parties reached an agreement. The Mediator's report shall indicate the absence of any party from the mediated settlement conference without permission or good cause.
5. Scheduling and Holding the Conference. It is the duty of the Mediator to schedule the conference and conduct it prior to the deadline of completion set by the rules. The Mediator shall strictly observe deadlines for completion of

the conference unless said time limit is changed by agreement of the parties.

**RULE 6. COMPENSATION OF THE MEDIATOR**

- A. The parties shall compensate the Mediator for mediation services at the rate proposed by the Mediator and agreed to by the parties at the time the Mediator is selected. .

**RULE 7. RULE MAKING**

- A. These Rules may be amended by the County at any time. Amendments will not affect mediations where claims and/or requests for mediation have been filed at the time the amendment takes effect

**RULE 8. DEFINITIONS**

- A. “County” shall mean the County of Randolph, North Carolina
- B. “Architect” or “Project Designer” is that person or firm stipulated as project designer in the Contract Documents for the project.
- C. “Claim” is a demand or assertion by a party seeking adjustment or interpretation of Contract terms, 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 County’s building construction renovation and repair projects arising out of or relating to the Contract or the construction process. Claims must be initiated by a written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- D. “Good Cause” generally includes any circumstance beyond the control of a party, which prevents that party from meeting obligations. When good cause is asserted as an excuse for a party’s failure to appear at a mediation conference or to otherwise comply with the requirements of these Rules, the Mediator, in his or her sole discretion, will determine whether good cause exists to excuse the party’s failure to appear or otherwise comply with these rules.

**RULE 9. TIME LIMITS**

- A. Any time limit provided for by these Rules may be waived or extended at the sole discretion of the County, if no Mediator has been selected, and at the discretion of the County with concurrence of the Mediator if a Mediator has been selected.

**SECTION 00 72 00 - SUPPLEMENTARY GENERAL CONDITIONS**

The following supplements modify, change, delete from or add to the "General Conditions". Where any article of the General Conditions is modified or any paragraph, subparagraph or clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of that article, paragraph, subparagraph or clause shall remain in effect.

**ARTICLE 1 DEFINITIONS**

Modify Article 1.2 to indicate the Architect : "Smith Sinnett Architecture, P.A. or an official representative thereof"

**ARTICLE 13 CONTRACT TIME**

Add the following:

- 13.18 The time of completion shall be **Two Hundred Forty (240)** consecutive calendar days from the Date of Commencement indicated in the Notice to Proceed.
- 13.19 Liquidated Damages shall be **Two Hundred and Fifty (\$250.00)** Dollars per calendar day.

**ARTICLE 36 GENERAL**

Add the following:

- 36.3 In addition to the manufacturer's warranty, the Contractor shall guarantee the materials and workmanship associated with the roofing, flashing, and sheet metal work incidental with the roofing, against defects, leaks or other failures due to faulty material, workmanship, and/or negligence by contractors for a period of twenty-four (24) months following final acceptance of the work. The substitution of an equal or longer term manufacturer's warranty in lieu of this requirement will not be acceptable.

**END OF SECTION 00 72 00**



**CONSTRUCTION CONTRACT**

THIS AGREEMENT, made the \_\_\_\_\_ day of \_\_\_\_\_ in the year of 20\_\_  
by and between \_\_\_\_\_  
hereinafter called the "Contractor" and the County of Randolph hereinafter called the "County."

**WITNESSETH:**

That the Contractor and the County for the consideration herein named agree as follows:

1. Scope of Work: The Contractor shall furnish and deliver all of the materials, and perform all of the work in the manner and form as provided by the following enumerated plans, specifications and documents, which are attached hereto and made a part thereof as if fully contained herein: advertisement; Instructions to Bidders; General Conditions; Supplementary General Conditions, Special Conditions, if any; specifications; accepted proposal; contract; performance bond; payment bond; power of attorney; workmen's compensation; public liability; property damage and builder's risk insurance certificates, and drawings, titled:

\_\_\_\_\_  
\_\_\_\_\_

Consisting of the following sheets:

\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_ and the following addenda:

Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated: \_\_\_\_\_

2. That the Contractor shall commence work to be performed under this agreement on a date to be specified in a written order of the County and shall fully complete all work hereunder within 240 consecutive calendar days from said date. For each day in excess thereof, liquidated damages shall be assessed at **two hundred fifty dollars (\$250.00)** per day. The Contractor, as one of the considerations for the awarding of this contract, shall furnish to the County a construction schedule setting forth planned progress of the project broken down by the various divisions or part of the work and by calendar days as outlined in Article 13 of the General Conditions of the Contract.

3. The County hereby agrees to pay to the Contractor for the faithful performance of this agreement, subject to additions and deductions as provided in the specifications or proposal, in

lawful money of the United States as follows: \_\_\_\_\_  
(\$ \_\_\_\_\_).

Summary of Contract Award:

4. In accordance with, and as specified in, Article 20 and Article 21 of the General Conditions of the Contract, the County shall review, and if approved, process the Contractor's pay request within a timely manner and in no event later than thirty (30) days upon receipt from the Architect. The County, after reviewing and approving said pay request, shall make payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, less five percent (5%) of the amount of such estimate which is to be retained by the County until all work has been performed strictly in accordance with this agreement and until such work has been accepted by the County. The County may elect to waive retainage requirements after 50 percent of the work has been satisfactorily completed on schedule as referred to in Article 20 of the General Conditions.

5. Upon submission by the Contractor of evidence satisfactory to the County, as specified in Article 21 of the General Conditions, that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this agreement shall be made within thirty (30) days after the completion by the Contractor of all work covered by this agreement and the acceptance of such work by the County.

6. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bonds hereto attached for its faithful performance, the County shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the County so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the County. In such event no further payment to the Contractor shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the County.

7. The Contractor attests that it and all of its subcontractors have fully complied with all requirements of NCGS 64 Article 2 in regards to E-Verification as required by Section 2.(c) of Session Law 2013-418, codified as N.C. Gen. Stat. § 143-129(j).

8. Contractor certifies that it is not identified on any list created by the North Carolina State Treasurer pursuant to North Carolina General Statute 147-86.58 et al (the Iran Divestment Act). This includes but is not limited to the Final Divestment List and the Iran Parent and Subsidiary Guidance List located at <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>. Contractor further certifies that it will not, during the term of this Agreement, subcontract with any entity identified on any such list.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement on the day and date first above written in \_\_\_\_\_ counterparts, each of which shall without proof or accounting for other counterparts, be deemed an original contract.

**CONTRACTOR**

Witness:

\_\_\_\_\_  
Contractor: (Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Owner, Partner, or Corp. Pres. or Vice Pres. only)

Attest: (Corporation)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Corp. Sec. or Asst. Sec. only)

(CORPORATE SEAL)

**RANDOLPH COUNTY**

\_\_\_\_\_  
Signature

Witness:

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

\_\_\_\_\_  
Randolph County Finance Officer



**FORM OF PERFORMANCE BOND**

Date of Contract: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Name of Principal  
(Contractor) \_\_\_\_\_

Name of Surety: \_\_\_\_\_

Name of Contracting  
Body: \_\_\_\_\_

Amount of Bond: \_\_\_\_\_

Project

KNOW ALL MEN BY THESE PRESENTS, that we, the principal and surety above named, are held and firmly bound unto the above named contracting body, hereinafter called the contracting body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind, ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the contracting body, identified as shown above and hereto attached:

NOW, THEREFORE, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the contracting body, with or without notice to the surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Executed in \_\_\_\_\_ counterparts.

**CONTRACTOR**

Witness:

\_\_\_\_\_  
Contractor: (Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Owner, Partner, or Corp. Pres. or Vice Pres. only)

Attest: (Corporation)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Corp. Sec. or Asst. Sec. only)

(CORPORATE SEAL)

\_\_\_\_\_  
(Surety Company)

Witness:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_  
(Attorney in Fact)

Countersigned:

\_\_\_\_\_

(Surety Corporate Seal)

\_\_\_\_\_  
(N.C. Licensed Resident Agent)

\_\_\_\_\_

\_\_\_\_\_  
Name and Address-Surety Agency

\_\_\_\_\_

\_\_\_\_\_  
Surety Company Name and N.C.  
Regional or Branch Office Address

**FORM OF PAYMENT BOND**

Date of Contract: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Name of Principal  
(Contractor) \_\_\_\_\_

Name of Surety: \_\_\_\_\_

Name of Contracting  
Body: \_\_\_\_\_

Amount of Bond: \_\_\_\_\_

Project \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that we, the principal and surety above named, are held and firmly bound unto the above named contracting body, hereinafter called the contracting body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal entered into a certain contract with the contracting body identified as shown above and hereto attached:

NOW, THEREFORE, if the principal shall promptly make payment to all persons supplying labor/material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Executed in \_\_\_\_\_ counterparts.

**CONTRACTOR**

Witness:

\_\_\_\_\_  
Contractor: (Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Owner, Partner, or Corp. Pres. or Vice Pres. only)

Attest: (Corporation)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Corp. Sec. or Asst. Sec. only)

(CORPORATE SEAL)

\_\_\_\_\_  
(Surety Company)

Witness:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_  
(Attorney in Fact)

Countersigned:

\_\_\_\_\_

(Surety Corporate Seal)

\_\_\_\_\_  
(N.C. Licensed Resident Agent)

\_\_\_\_\_

\_\_\_\_\_  
Name and Address-Surety Agency

\_\_\_\_\_

\_\_\_\_\_  
Surety Company Name and N.C.  
Regional or Branch Office Address

Sheet for Attaching Power of Attorney

Sheet for Attaching Insurance Certificates



## **SECTION 00 90 10 - SPECIAL CONDITIONS**

The following requirements are, in fact, Conditions of the Contract, and are in addition to the General Conditions, Supplementary General Conditions and Special Conditions and are not intended to replace or otherwise conflict with those Conditions. These Special Requirements are particular to the Work of this Project and are intended to inform the Contractor of non-standard conditions affecting the Work of the Contract.

### **ARTICLE 1 - QUALIFICATION OF PROJECT SUPERINTENDENT**

The Contractor shall be required to demonstrate his capability to provide a qualified project superintendent for the project who is acceptable to the Owner and Architect. The project superintendent shall have at least five years of successful experience on projects of similar size, scope and nature. Contractor shall be required to substantiate these qualifications with a written submittal within seven calendar days after opening of the Bids. The Contractor is charged with providing a qualified and experienced superintendent for this project to the satisfaction of the Owner and Architect. The Owner reserves the right to disapprove a proposed superintendent who does not appear to be fully qualified and experienced to accomplish the work of this project.

### **ARTICLE 2 - SINGLE PRIME AND SEPARATE PRIME CONTRACT BIDS**

Bids will be received for Single Prime Contracts only. Opening of Bids, as it relates to the number of bids required to allow opening, and award of Contracts, as it relates to low bid and the number of bids required to allow award, shall be governed by the guidelines and procedures recommended by the State Department of Construction of the N.C. Department of Administration for bid openings for single prime informal contract bids.

Those Bidders submitting Single Prime Contract bids shall be aware that all work of the project is included in the Work of a Single Prime Contractor, regardless of the divisions of work indicated on the Drawings and in the Project Manual. All references and indications in the Drawings and the Project Manual to Separate Prime Contracts shall apply to the Single Prime Contract.

Single Prime Contract Bidders must include the names of their major subcontractors on the Proposal form as indicated, to include Plumbing and Electrical.

Bid Alternates and Unit Prices identified shall be bid, as identified, by the Single Prime Contract Bidder, as indicated on the Proposal form.

All Allowances identified shall all be included in the Single Prime Contract Bid.

### **ARTICLE 3 - COORDINATION AND COOPERATION WITH OTHER CONTRACTORS**

Prime Contractor shall be aware that the Owner has or may engage other contractors to accomplish work concurrently with the Work of this project, which will have a direct effect on the accomplishment of the Work of this project. Contractors will be required to cooperate and coordinate with these other contractors during the course of the project to avoid delays in the work of this project of that of the other contractors.

### **ARTICLE 4 - UNDERGROUND SERVICES- IMPORTANT!**

**Prime Contractor and all subcontractors shall field locate all underground services whether shown on drawings or not, including, but not limited to the following: utilities, underground wire, fiber optic lines, cable, conduit, and pipe, prior to initiating any excavation on any area of the proposed site. Provide and pay for underground utility locator service, metal detectors and hand digging as necessary to satisfy above requirements. Prime Contractor (s) and their subcontractors shall be responsible for utility services damaged during construction and shall repair at their own expense any utility services damaged by their work. Repairs shall be completed within 24 hours or less.**



**ARTICLE 5 - AMERICANS WITH DISABILITIES ACT (ADA)**

It is the design intent of this project to comply with the Americans with Disabilities Act and Chapter 11 of the North Carolina Building Code 2012 and ANSI ICC A117.1-2009. All items and assemblies manufactured or fabricated for installation on this project shall be ADA compliant. Shop drawing submittals shall indicate ADA compliance. Installation of all items and assemblies shall be ADA compliant. All contractors shall submit a statement that all work to the best of their knowledge is ADA compliant prior to release of final retainage. Remedy of non-compliant circumstances should they arise shall consist of written notification to the Architect by the Contractor prior installation or fabrication of the respective building component or arrangement. Should any contractor, subcontractor, or regulatory authority having jurisdiction become aware of any non-compliant circumstance he shall notify the Architect at once.

**ARTICLE 6 - RESTRICTIONS ON CONSTRUCTION PERSONNEL**

Behavior of construction personnel on the site shall be expected to be exemplary. Foul language, rude or crude behavior, suggestive comments or actions, or other behavior considered unacceptable will not be tolerated. Shirts will be required to be worn at all times. Contractors will be responsible to counsel their personnel concerning the above restrictions and will be responsible to insure that these restrictions are enforced. Failure on the part of construction personnel to comply with the intent of these restrictions will be grounds for their permanent removal and banning from the Project site.

**END OF SECTION 00 90 10**