

PROJECT and SPECIFICATIONS MANUAL
for the Oxford ABC Store Addition
111 New College Street,
Oxford, NC 27565

OWNER: Granville County ABC Board
Rob Williford, Chairman
P.O. Box 876
Oxford, NC 27565

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DATE: February, 2022

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for Oxford ABC Store Addition
111 New College Street
Oxford, NC 27565

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NOTICE TO BIDDERS

Sealed proposals will be received by the Granville County ABC Board in Oxford, NC, at the Granville Expo Center; 4185 US 15 South, Oxford, NC 27565 up to 3:00 pm on March 15th, 2022 and immediately thereafter publicly opened and read for the furnishing of labor, material and equipment entering into the construction of

New Oxford ABC Store Addition at the existing location at 111 New College Street, Oxford, NC 27565

Complete new 4,310 sf addition for retail, offices, and a loading dock. Interior alterations to the existing 5,260 s.f. retail space for expansion of the stock room. Associated sitework to include re-working and expansion of the existing parking lot, sidewalks retaining wall, and landscaping.

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

Pre-Bid Meeting

A Pre-Bid Conference will be held on Tuesday, February 16th, 2022 beginning at 1:00PM at the Granville County Expo Center, 4185 US 15 South, Oxford, NC 27565. The meeting will address project specific questions, issues, bidding procedures, and bid forms.

Complete plans, specifications and contract documents will be open for inspection in the offices of Stephen T. Baxter, Architect PLLC (STBaxter.ARCH@outlook.com) and in the plan rooms of the Associated General Contractors, Carolinas Branch, Raleigh in the local North Carolina offices of McGraw-Hill Dodge Corporation, and in the Eastern Regional Office of Reed Construction Data in Norcross, GA and in Minority Plan Room Hispanic Contractors Association of the Carolinas (HCAC) in Winston-Salem, Charlotte and Raleigh Areas – 877-227-1680.

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 Commercial.

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.

The Construction Start Date will be May 1st, 2022, and the Construction Completion Date will be October 27th, 2022 for a Construction Period of 180 calendar days.

After contractor receives written notice to proceed by way of signed contract with owner, a construction schedule is to be submitted to the architect.

Contractor will not be held responsible for delays outside of their control. Contractor is responsible for notifying Stephen T. Baxter, Architect PLLC in writing as to any anticipated delays and the reasons for same. Contractor will be assessed liquidated damages in amount of \$500 per day after the completion date established in the construction contract if there is any remaining work or punch list items.

Bidders are to provide three (3) references of similar recently completed projects with the sealed bid.

The General Contractor shall secure and pay for all permits, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

No bid may be withdrawn after the scheduled closing time for the receipt of bids for a period of 30 days.

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

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Owner:
Granville County ABC Board
Rob Williford, Chairman
P.O. Box 876
Oxford, NC 27565

**INSTRUCTIONS TO BIDDERS
AND
GENERAL CONDITIONS OF THE CONTRACT**

STANDARD FORM FOR CONSTRUCTION PROJECTS

**GRANVILLE COUNTY ABC BOARD
OXFORD ABC STORE ADDITION**

INSTRUCTIONS TO BIDDERS

For a proposal to be considered it must be in accordance with the following instructions:

1. PROPOSALS

Proposals must be made in strict accordance with the Form of Proposal provided therefor, and all blank spaces for bids, alternates, and unit prices applicable to bidder's work shall be properly filled in. When requested alternates are not bid, the proposer shall so indicate by the words "No Bid". Any blanks shall also be interpreted as "No Bid". The bidder agrees that bid on Form of Proposal detached from specifications will be considered and will have the same force and effect as if attached thereto. Photocopied or faxed proposals will not be considered. Numbers shall be stated both in writing and in figures for the base bids and alternates. If figures and writing differ, the written number will supersede the figures.

Any modifications to the Form of Proposal (including alternates and/or unit prices) will disqualify the bid and may cause the bid to be rejected.

The bidder shall fill in the Form of Proposal as follows:

- a. If the documents are executed by a sole owner, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them.
- b. If the documents are executed by a partnership, that fact shall be evidenced by the word "Co-Partner" appearing after the name of the partner executing them.
- c. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.
- d. If the proposal is made by a joint venture, it shall be executed by each member of the joint venture in the above form for sole owner, partnership or corporation, whichever form is applicable.
- e. All signatures shall be properly witnessed.
- f. If the Contractor's license of a bidder is held by a person other than an owner, partner or officer of a firm, then the licensee shall also sign and be a party to the proposal. The title "Licensee" shall appear under his/her signature.

Proposals should be addressed as indicated in the Advertisement for Bids and be delivered, enclosed in an opaque sealed envelope, marked "Proposal" and bearing the title of the work, name of the bidder, and the Contractor's license number of the bidder. Bidders should clearly mark on the outside of the bid envelope which contract(s) they are bidding.

Bidder shall identify on the bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts or an affidavit indicating work under contract will be self-performed, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f). Failure to comply with these requirements is grounds for rejection of the bid.

For projects bid in the single-prime alternative, the names and license numbers of major Subcontractors shall be listed on the proposal form.

It shall be the specific responsibility of the bidder to deliver his bid to the proper official at the selected place and prior to the announced time for the opening of bids. Later delivery of a bid for any reason, including delivery by any delivery service, shall disqualify the bid.

Unit prices quoted in the proposal shall include overhead and profit and shall be the full compensation for the Contractor's cost involved in the work. See General Conditions, Article 19c-1.

2. EXAMINATION OF CONDITIONS

It is understood and mutually agreed that by submitting a bid the bidder acknowledges that he has carefully examined all documents pertaining to the work, the location, accessibility and general character of the site of the work and all existing buildings and structures within and adjacent to the site, and has satisfied himself as to the nature of the work, the condition of existing buildings and structures, the conformation of the ground, the character, quality and quantity of the material to be encountered, the character of the equipment, machinery, plant and any other facilities needed preliminary to and during prosecution of the work, the general and local conditions, the construction hazards, and all other matters, including, but not limited to, the labor situation which can in any way affect the work under the contract, and including all safety measures required by the Occupational Safety and Health Act of 1970 and all rules and regulations issued pursuant thereto. It is further mutually agreed that by submitting a proposal the bidder acknowledges that he has satisfied himself as to the feasibility and meaning of the plans, drawings, specifications and other contract documents for the construction of the work and that he accepts all the terms, conditions and stipulations contained therein; and that he is prepared to work in cooperation with other Contractors performing work on the site.

Reference is made to contract documents for the identification of those surveys and investigation reports of subsurface or latent physical conditions at the site or otherwise affecting performance of the work which have been relied upon by the designer in preparing the documents. The owner will make copies of all such surveys and reports available to the bidder upon request.

Each bidder may, at his own expense, make such additional surveys and investigations as he may deem necessary to determine his bid price for the performance of the work. Any on-site investigation shall be done at the convenience of the owner. Any reasonable request for access to the site will be honored by the owner.

3. BULLETINS AND ADDENDA

Any addenda to specifications issued during the time of bidding are to be considered covered in the proposal and in closing a contract they will become a part thereof. It shall be the bidder's responsibility to ascertain prior to bid time the addenda issued and to see that his bid includes any changes thereby required.

Should the bidder find discrepancies in, or omission from, the drawings or documents or should he be in doubt as to their meaning, he shall at once notify the designer who will send written instructions in the form of addenda to all bidders. Notification should be no later than seven (7) days prior to the date set for receipt of bids. Neither the owner nor the designer will be responsible for any oral instructions.

All addenda should be acknowledged by the bidder(s) on the Form of Proposal. However, even if not acknowledged, by submitting a bid, the bidder has certified that he has reviewed all issued addenda and has included all costs associated within his bid.

4. BID SECURITY

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, or a bid bond in an amount equal to not less than five percent (5%) of the proposal, said deposit to be retained by the owner as liquidated damages in event of failure of the successful bidder to execute the contract within ten (10) days after the award or to give satisfactory surety as required by law (G.S. 143-129).

Bid bond shall be conditioned that the surety will, upon demand, forthwith make payment to the obligee upon said bond if the bidder fails to execute the contract. The owner may retain bid securities of any bidder(s) who may have a reasonable chance of award of contract for the full duration of time stated in the Notice to Bidders. Other bid securities may be released sooner, at the discretion of the owner. All bid securities (cash or certified checks) shall be returned to the bidders promptly after award of contracts, and no later than seven (7) days after expiration of the holding period stated in the Notice to Bidders. Standard Form of Bid Bond is included in these specifications and shall be used.

5. RECEIPT OF BIDS

Bids shall be received in strict accordance with requirements of the General Statutes of North Carolina. Bid security shall be required as prescribed by statute. Prior to the closing of the bid, the bidder will be permitted to change or withdraw his bid. Guidelines for opening of public construction bids entitled "Guidelines for Opening of Public Construction Bids" are available from the State Construction Office and are available online at <https://files.nc.gov/ncdoa/documents/files/sbcbids1.pdf>.

6. OPENING OF BIDS

Upon opening, all bids shall be read aloud. Once bidding is closed, there shall not be any withdrawal of bids by any bidder and no bids may be returned by the designer to any bidder. After the opening of bids, no bid may be withdrawn, except under the provisions of General Statute 143-129.1, for a period of thirty days unless otherwise specified. Should the successful bidder default and fail to execute a contract, the contract may be awarded to the next lowest and responsible bidder. The owner reserves the unqualified right to reject any and all bids. Reasons for rejection may include, but shall not be limited to, the following:

- a. If the Form of Proposal furnished to the bidder is not used or is altered.
- b. If the bidder fails to insert a price for all bid items, alternate and unit prices requested.
- c. If the bidder adds any provisions reserving the right to accept or reject any award.
- d. If there are unauthorized additions or conditional bids, or irregularities of any kind which tend to make the proposal incomplete, indefinite or ambiguous as to its meaning.
- e. If the bidder fails to complete the proposal form where information is requested so the bid may be properly evaluated by the owner.
- f. If the unit prices contained in the bid schedule are unacceptable to the owner.

- g. If the bidder fails to comply with other instructions stated herein.

7. BID EVALUATION

The award of the contract will be made to the lowest responsible bidder as soon as practical. The owner may award on the basis of the base bid and any alternates the owner chooses.

Before awarding a contract, the owner may require the apparent low bidder to qualify himself to be a responsible bidder by furnishing any or all of the following data:

- a. The latest financial statement showing assets and liabilities of the company or other information satisfactory to the owner.
- b. A listing of completed projects of similar size.
- c. Permanent name and address of place of business.
- d. The number of regular employees of the organization and length of time the organization has been in business under present name.
- e. The name and home office address of the surety proposed and the name and address of the responsible local claim agent.
- f. The names of members of the firms who hold appropriate trade licenses, together with license numbers.
- g. If prequalified, Contractor info will be reviewed and evaluated comparatively to submitted prequalification package.

Failure or refusal to furnish any of the above information, if requested, shall constitute a basis for disqualification of any bidder.

In determining the lowest responsible, responsive bidder, the owner shall take into consideration the bidder's compliance with the requirements of G.S. 143-128.2(c), the past performance of the bidder on construction contracts with particular concern given to completion times, quality of work, cooperation with other Contractors, and cooperation with the designer and owner. Failure of the low bidder to furnish affidavit and/or documentation as required by G.S. 143-128.2(c) shall constitute a basis for disqualification of the bid.

Should the owner adjudge that the apparent low bidder is not the lowest responsible, responsive bidder by virtue of the above information, said apparent low bidder will be so notified and his bid security shall be returned to him.

8. PERFORMANCE BOND

The successful bidder, upon award of contract, shall furnish a performance bond in an amount equal to 100 percent of the contract price. See Article 35, General Conditions.

9. PAYMENT BOND

The successful bidder, upon award of contract, shall furnish a payment bond in an amount equal to 100 percent of the contract price. See Article 35, General Conditions.

10. PAYMENTS

Payments to the successful bidders (Contractors) will be made on the basis of monthly estimates. See Article 31, General Conditions.

11. PRE-BID CONFERENCE

Prior to the date set for receiving bids, the Designer will conduct a mandatory Pre-Bid Conference for all prospective bidders. The purpose of this conference is to review project requirements and to respond to questions from prospective bidders and their Subcontractors or material suppliers related to the intent of bid documents. Attendance by prospective bidders shall be as required by the "Notice to Bidders".

12. SUBSTITUTIONS

In accordance with the provisions of G.S. 133-3, material, product, or equipment substitutions proposed by the bidders to those specified herein can only be considered during the bidding phase until ten (10) days prior to the receipt of bids when submitted to the Designer with sufficient data to confirm material, product, or equipment equality. Proposed substitutions submitted after this time will be considered only as potential change order.

Submittals for proposed substitutions shall include the following information:

- a. Name, address, and telephone number of manufacturer and supplier as appropriate.
- b. Trade name, model or catalog designation.
- c. Product data including performance and test data, reference standards, and technical descriptions of material, product, or equipment. Include color samples and samples of available finishes as appropriate.
- d. Detailed comparison with specified products including performance capabilities, warranties, and test results.
- e. Other pertinent data including data requested by the Designer to confirm product equality.

If a proposed material, product, or equipment substitution is deemed equal by the Designer to those specified, all bidders of record will be notified by Addendum.

GENERAL CONDITIONS OF THE CONTRACT

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ARTICLE 1 - DEFINITIONS

- a. The **contract documents** consist of the Notice to Bidders; Instructions to Bidders; General Conditions of the Contract; special conditions if applicable; Supplementary General Conditions; the drawing and specifications, including all bulletins, addenda or other modifications of the drawings and specifications incorporated into the documents prior to their execution; the proposal; the contract; the performance bond; the payment bond; and insurance certificates. All of these items together form the contract.
- b. The **owner** is the Granville County ABC Board, Granville County, North Carolina.
- c. The **designer(s)** are those referred to within this contract, or their authorized representatives. The Designer(s), as referred to herein, shall mean architect and/or engineer. They will be referred to hereinafter as if each were of the singular number, masculine gender.
- d. The **Contractor**, as referred to hereinafter, shall be deemed to be either of the several contracting parties called the "Party of the First Part" in either of the several contracts in connection with the total project. Where, in special instances hereinafter, a particular Contractor is intended, an adjective precedes the word "Contractor," as "general," "heating," etc. For the purposes of a single prime contract, the term Contractor shall be deemed to be the single contracting entity identified as the "Party of the First Part" in the single Construction Contract. Any references or adjectives that name or infer multiple prime Contractors shall be interpreted to mean the single prime Contractor.
- e. A **Subcontractor**, as the term is used herein, shall be understood to be one who has entered into a direct contract with a Contractor, and includes one who furnishes materials worked to a special design in accordance with plans and specifications covered by the contract, but does not include one who only sells or furnishes materials not requiring work so described or detailed.
- f. **Written notice** shall be defined as notice in writing delivered in person to the Contractor, or to a partner of the firm in the case of a partnership, or to a member of the contracting organization, or to an officer of the organization in the case of a corporation, or sent to the last known business address of the contracting organization by registered mail.
- g. **Work**, as used herein as a noun, is intended to include materials, labor, and workmanship of the appropriate Contractor.
- h. The **project** is the total construction work to be performed under the contract documents by the several Contractors.
- i. **Project Expediter**, as used herein, is an entity stated in the contract documents, designated to effectively facilitate scheduling and coordination of work activities. See Article 14(f) for responsibilities of a Project Expediter. **For the purposes of a single prime contract, the single prime Contractor shall be designated as the Project Expediter.**
- j. **Change order**, as used herein, shall mean a written order to the Contractor subsequent to the signing of the contract authorizing a change in the contract. The change order shall be signed by the Contractor, designer and the owner, in that order (Article 19).

- k. **Field Order**, as used herein, shall mean a written approval for the Contractor to proceed with the work requested by owner prior to issuance of a formal Change Order. The field order shall be signed by the Contractor, designer, and owner.
- l. **Time of completion**, as stated in the contract documents, is to be interpreted as consecutive calendar days measured from the date established in the written Notice to Proceed, or such other date as may be established herein (Article 23).
- m. **Liquidated damages**, as stated in the contract documents, is an amount reasonably estimated in advance to cover the consequential damages associated with the Owner's economic loss in not being able to use the Project for its intended purposes at the end of the contract's completion date as amended by change order, if any, by reason of failure of the Contractor(s) to complete the work within the time specified. Liquidated damages does not include the Owner's extended contract administration costs (including but not limited to additional fees for architectural and engineering services, testing services, inspection services, commissioning services, etc.), such other damages directly resulting from delays caused solely by the Contractor, or consequential damages that the Owner identified in the bid documents that may be impacted by any delay caused solely by the Contractor (e.g., if a multi-phased project-subsequent phases, delays in start other projects that are dependent on the completion of this Project, extension of leases and/or maintenance agreements for other facilities).
- n. **Surety**, as used herein, shall mean the bonding company or corporate body which is bound with and for the Contractor, and which engages to be responsible for the Contractor and his acceptable performance of the work.
- o. **Routine written communications between the Designer and the Contractor** are any communication other than a "request for information" provided in letter, memo, or transmittal format, sent by mail, courier, electronic mail, or facsimile. Such communications cannot be identified as "request for information".
- p. **Clarification or Request for information (RFI)** is a request from the Contractor seeking an interpretation or clarification by the Designer relative to the contract documents. The RFI, which shall be labeled (RFI), shall clearly and concisely set forth the issue or item requiring clarification or interpretation and why the response is needed. The RFI must set forth the Contractor's interpretation or understanding of the contract documents requirements in question, along with reasons for such an understanding.
- q. **Approval** means written or imprinted acknowledgement that materials, equipment or methods of construction are acceptable for use in the work.
- r. **Inspection** shall mean examination or observation of work completed or in progress to determine its compliance with contract documents.
- s. **"Equal to" or "approved equal"** shall mean materials, products, equipment, assemblies, or installation methods considered equal by the bidder in all characteristics (physical, functional, and aesthetic) to those specified in the contract documents. Acceptance of equal is subject to approval of Designer and owner.
- t. **"Substitution" or "substitute"** shall mean materials, products, equipment, assemblies, or installation methods deviating in at least one characteristic (physical, functional, or aesthetic) from those specified, but which in the opinion of the bidder would improve competition and/or enhance the finished installation. Acceptance of substitution is subject to the approval of the Designer and owner.

- u. **Provide** shall mean furnish and install complete in place, new, clean, operational, and ready for use.
- v. **Indicated and shown** shall mean provide as detailed, or called for, and reasonably implied in the contract documents.
- w. **Special inspector** is one who inspects materials, installation, fabrication, erection or placement of components and connections requiring special expertise to ensure compliance with the approved construction documents and referenced standards.
- x. **Commissioning** is a quality assurance process that verifies and documents that building components and systems operate in accordance to the owner's project requirements and the project design documents.
- y. **Designer Final Inspection** is the inspection performed by the design team to determine the completeness of the project in accordance with approved plans and specifications. This inspection occurs prior to final inspection.
- z. **Final Inspection** is the inspection performed by Granville County Inspections Division to determine the completeness of the project in accordance with NC Building Codes and approved plans and specifications.
- aa. **Beneficial Occupancy** is requested by the owner and is occupancy or partial occupancy of the building after all life safety items have been completed as determined by the Granville County Inspections Division. Life safety items include but not limited to fire alarm, sprinkler, egress and exit lighting, fire rated walls, egress paths and security.
- bb. **Final Acceptance** is the date in which the Granville County Inspections Division and the Owner accept the construction as totally complete. This includes the Granville County Inspections Division Final Inspection and certification by the designer that all punch lists are completed.

ARTICLE 2 - INTENT AND EXECUTION OF DOCUMENTS

- a. The drawings and specifications are complementary, one to the other, and that which is shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a bid for a complete job. In case of discrepancy or disagreement in the contract documents, the order of precedence shall be: Form of Contract, specifications, large-scale detail drawings, small-scale drawings.
- b. The wording of the specifications shall be interpreted in accordance with common usage of the language except that words having a commonly used technical or trade meaning shall be so interpreted in preference to other meanings.
- c. The Contractor shall execute each copy of the proposal, contract, performance bond and payment bond as follows:
 - 1. If the documents are executed by a sole owner, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them.
 - 2. If the documents are executed by a partnership, that fact shall be evidenced by the word

"Co-Partner" appearing after the name of the partner executing them.

3. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.
4. If the documents are made by a joint venture, they shall be executed by each member of the joint venture in the above form for sole owner, partnership or corporation, whichever form is applicable to each particular member.
5. All signatures shall be properly witnessed.
6. If the Contractor's license is held by a person other than an owner, partner or officer of a firm, then the licensee shall also sign and be a party to the contract. The title "Licensee" shall appear under his/her signature.
7. The bonds shall be executed by an attorney-in-fact. There shall be attached to each copy of the bond a certified copy of power of attorney properly executed and dated.
8. Each copy of the bonds shall be countersigned by an authorized individual agent of the bonding company licensed to do business in North Carolina. The title "Licensed Resident Agent" shall appear after the signature.
9. The seal of the bonding company shall be impressed on each signature page of the bonds.
10. The Contractor's signature on the performance bond and the payment bond shall correspond with that on the contract. The date of performance and payment bond shall not be prior to the date of the contract.

ARTICLE 3 - CLARIFICATIONS AND DETAIL DRAWINGS

- a. In such cases where the nature of the work requires clarification by the designer, such clarification shall be furnished by the designer with reasonable promptness by means of written instructions or detail drawings, or both. Clarifications and drawings shall be consistent with the intent of contract documents, and shall become a part thereof.
- b. The Contractor(s) and the designer shall prepare, if deemed necessary, a schedule fixing dates upon which foreseeable clarifications will be required. The schedule will be subject to addition or change in accordance with progress of the work. The designer shall furnish drawings or clarifications in accordance with that schedule. The Contractor shall not proceed with the work without such detail drawings and/or written clarifications.

ARTICLE 4 - COPIES OF DRAWINGS AND SPECIFICATIONS

The designer or Owner shall furnish free of charge to the Contractors electronic copies of plans and specifications. If requested by the Contractor, paper copies of plans and specifications shall be furnished free of charge as follows:

- a. General Contractor - Up to twelve (12) sets of general Contractor drawings and specifications, up to six (6) sets of which shall include drawings and specifications of all other contracts, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the Contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.

- b. Each other Contractor - Up to six (6) sets of the appropriate drawings and specifications, up to three (3) sets of which shall include drawings and specifications of all other contracts, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the Contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.
- c. Additional sets shall be furnished at cost, including mailing, to the Contractor upon request by the Contractor. This cost shall be stated in the bidding documents.
- d. For the purposes of a single-prime contract, the Contractor shall receive up to ~~30~~ 10 sets of drawings and specifications, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the Contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.

ARTICLE 5 - SHOP DRAWINGS, SUBMITTALS, SAMPLES, DATA

- a. Within 15 consecutive calendar days after the notice to proceed, each prime Contractor shall submit a schedule for submission of all shop drawings, product data, samples, and similar submittals through the Project Expediter to the Designer. This schedule shall indicate the items, relevant specification sections, other related submittal, data, and the date when these items will be furnished to the designer.
- b. The Contractor(s) shall review, approve and submit to the Designer all Shop Drawings, Coordination Drawings, Product Data, Samples, Color Charts, and similar submittal data required or reasonably implied by the Contract Documents. Required Submittals shall bear the Contractor's stamp of approval, any exceptions to the Contract Documents shall be noted on the submittals, and copies of all submittals shall be of sufficient quantity for the Designer to retain up to three (3) copies of each submittal for his own use plus additional copies as may be required by the Contractor. Submittals shall be presented to the Designer in accordance with the schedule submitted in paragraph (a). so as to cause no delay in the activities of the Owner or of separate Contractors.
- c. The Designer shall review required submittals promptly, noting desired corrections if any, and retaining three (3) copies (1 for the Designer, 1 for the owner and 1 for Granville County Inspections Division) for his use. The remaining copies of each submittal shall be returned to the Contractor not later than twenty (20) days from the date of receipt by the Designer, for the Contractor's use or for corrections and resubmittal as noted by the Designer. When resubmittals are required, the submittal procedure shall be the same as for the original submittals.
- d. Approval of shop drawings/submittals by the Designer shall not be construed as relieving the Contractor from responsibility for compliance with the design or terms of the contract documents nor from responsibility of errors of any sort in the shop drawings, unless such lack of compliance or errors first have been called in writing to the attention of the Designer by the Contractor.

ARTICLE 6 - WORKING DRAWINGS AND SPECIFICATIONS AT THE JOB SITE

- a. The Contractor shall maintain, in readable condition at his job office, one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by the designer, his authorized representative, owner or Granville County Inspections Division.
- b. The Contractor shall maintain at the job office, a day-to-day record of work-in-place that

is at variance with the contract documents. Such variations shall be fully noted on project drawings by the Contractor and submitted to the designer upon project completion and no later than 30 days after final acceptance of the project.

- c. The Contractor shall maintain at the job office a record of all required tests that have been performed, clearly indicating the scope of work inspected and the date of approval or rejection.

ARTICLE 7 - OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

All drawings and specifications are instruments of service and remain the property of the owner. The use of these instruments on work other than this contract without permission of the owner is prohibited. All copies of drawings and specifications other than contract copies shall be returned to the owner upon request after completion of the work.

ARTICLE 8 - MATERIALS, EQUIPMENT, EMPLOYEES

- a. The Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.
- b. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- c. Upon notice, the Contractor shall furnish evidence as to quality of materials.
- d. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. However, the Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to the designer for approval or disapproval; such approval or disapproval shall be made by the designer prior to the opening of bids. Alternate materials may be requested after the award if it can clearly be demonstrated that it is an added benefit to the owner and the designer and owner approves.
- e. The designer is the judge of equality for proposed substitution of products, materials or equipment.

- g. If at any time during the construction and completion of the work covered by these contract documents, the language, conduct, or attire of any workman of the various crafts be adjudged a nuisance to the owner or designer, or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from grounds.

ARTICLE 9 - ROYALTIES, LICENSES AND PATENTS

It is the intention of the contract documents that the work covered herein will not constitute in any way infringement of any patent whatsoever unless the fact of such patent is clearly evidenced herein. The Contractor shall protect and save harmless the owner against suit on account of alleged or actual infringement. The Contractor shall pay all royalties and/or license fees required on account of patented articles or processes, whether the patent rights are evidenced hereinafter.

ARTICLE 10 - PERMITS, INSPECTIONS, FEES, REGULATIONS

- a. The Contractor shall give all notices and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the designer in writing. See Instructions to Bidders, Paragraph 3, Bulletins and Addenda. Any necessary changes required after contract award shall be made by change order in accordance with Article 19. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the designer, he shall bear all cost arising therefrom. Additional requirements implemented after bidding will be subject to equitable negotiations.
- b. All work under this contract shall conform to the North Carolina State Building Code and other State, local and national codes as are applicable. The cost of all required inspections and permits shall be the responsibility of the Contractor and included within the bid proposal. All water taps, meter barrels, vaults and impact fees shall be paid by the Contractor unless otherwise noted.

ARTICLE 11 - PROTECTION OF WORK, PROPERTY AND THE PUBLIC

- a. The Contractors shall be jointly responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by the owner or designer, and by laws or ordinances governing such conditions. They shall be responsible for any damage to the owner's property, or of that of others on the job, by them, their personnel, or their Subcontractors, and shall make good such damages. They shall be responsible for and pay for any damages caused to the owner. All Contractors shall have access to the project at all times.
- b. The Contractor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the 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.
- c. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from the designer and owner.
- d. The Contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around same. He shall barricade all walks, roads, etc., as directed by the designer to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
- e. The Contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. *Accident Prevention Manual in Construction*, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, elevator shafts, stairwells and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
- f. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, *Federal Register*), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
- g. The Contractor shall designate a responsible person of his organization as safety officer/inspector to inspect the project site for unsafe health and safety hazards, to report these hazards to the Contractor for correction, and whose duties also include accident prevention on the project, and to provide other safety and health measures on the project site as required by the terms and conditions of the contract. The name of the safety inspector shall be made known to the designer and owner at the time of the preconstruction conference and in all cases prior to any work starting on the project.
- h. In the event of emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the Contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage.

Any compensation claimed by the Contractor on account of such action shall be determined as provided for under Article 19(b).

- i. Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall be borne by the Contractor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

ARTICLE 12 - SEDIMENTATION POLLUTION CONTROL ACT OF 1973

- a. Any land-disturbing activity performed by the Contractor(s) 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 N.C.A.C. 4A, 4B and 4C).
- b. Upon receipt of notice that a land-disturbing activity is in violation of said act, the Contractor(s) shall be responsible for ensuring that all steps or actions necessary to bring the project in compliance with said act are promptly taken.
- c. The Contractor(s) shall be responsible for defending any legal actions instituted pursuant to N.C.G.S. 113A-64 against any party or persons described in this article.
- d. To the fullest extent permitted by law, the Contractor(s) shall indemnify and hold harmless the owner, the designer and the agents, consultants and employees of the owner and designer, from and against all claims, damages, civil penalties, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of work or failure of performance of work, provided that any such claim, damage, civil penalty, loss or expense is attributable to a violation of the Sedimentation Pollution Control Act. Such obligation shall not be construed to negate, abridge or otherwise reduced any other right or obligation of indemnity which would otherwise exist as to any party or persons described in this article.

ARTICLE 13 - INSPECTION OF THE WORK

- a. It is a condition of this contract that the work shall be subject to inspection during normal working hours and during any time work is in preparation and progress by the designer, designated official representatives of the owner, Granville County Inspections Division and those persons required by state law to test special work for official approval. The Contractor shall therefore provide safe access to the work at all times for such inspections.
- b. All instructions to the Contractor will be made only by or through the designer or his designated project representative. Observations made by official representatives of the owner shall be conveyed to the designer for review and coordination prior to issuance to the Contractor.
- c. All work shall be inspected by designer, special inspector and/or Granville County Inspections Division prior to being covered by the Contractor. Contractor shall give a minimum two weeks' notice unless otherwise agreed to by all parties. If inspection fails, after the first reinspection all costs associated with additional re-inspections shall be borne by the Contractor.

- d. Where special inspection or testing is required by virtue of any state laws, instructions of the designer, specifications or codes, the Contractor shall give adequate notice to the designer of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the designer. Such special tests or inspections will be made in the presence of the designer, or his authorized representative, and it shall be the Contractor's responsibility to serve ample notice of such tests.
- e. All laboratory tests shall be paid by the owner unless provided otherwise in the contract documents except the general Contractor shall pay for laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with contract documents where materials have tested deficient except when the testing laboratory did not follow the appropriate ASTM testing procedures.
- f. Should any work be covered up or concealed prior to inspection and approval by the designer, special inspector, and/or Granville County Inspections Division such work shall be uncovered or exposed for inspection, if so requested by the designer in writing. Inspection of the work will be made upon notice from the Contractor. All cost involved in uncovering, repairing, replacing, recovering and restoring to design condition, the work that has been covered or concealed will be paid by the Contractor involved.

ARTICLE 14 - CONSTRUCTION SUPERVISION AND SCHEDULE

- a. Throughout the progress of the work, each Contractor shall keep at the job site, a competent superintendent and supervisory staff satisfactory to the designer and the owner. The superintendent and supervisory staff shall not be changed without the consent of the designer and owner unless said superintendent ceases to be employed by the Contractor or ceases to be competent as determined by the Contractor, designer or owner. The superintendent and other staff designated by the Contractor in writing shall have authority to act on behalf of the Contractor, and instructions, directions or notices given to him shall be as binding as if given to the Contractor. However, directions, instructions, and notices shall be confirmed in writing.
- b. The Contractor shall examine and study the drawings and specifications and fully understand the project design, and shall provide constant and efficient supervision to the work. Should he discover any discrepancies of any sort in the drawings or specifications, he shall report them to the designer without delay. He will not be held responsible for discrepancies in the drawings and/or specifications, but shall be held responsible to report them should they become known to him.
- c. All Contractors shall be required to cooperate and consult with each other during the construction of this project. Prior to installation of work, all Contractors shall jointly prepare coordination drawings, showing locations of various ductworks, piping, motors, pumps, and other mechanical or electrical equipment, in relation to the structure, walls and ceilings. These drawings shall be submitted to the designer through the Project Expediter for information only. Each Contractor shall lay out and execute his work to cause the least delay to other Contractors. Each Contractor shall be financially responsible for any damage to other Contractor's work and for undue delay caused to other Contractors on the project.
- d. The Contractor is required to attend job site progress conferences as called by the designer. The Contractor shall be represented at these job progress conferences by both home office and project personnel. These representatives shall have authority to act on behalf of the Contractor. These meetings shall be open to Subcontractors, material

suppliers and any others who can contribute toward maintaining required job progress. It shall be the principal purpose of these meetings, or 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 project within the specified contract time. Each Contractor shall be prepared to assess progress of the work as required in his particular contract and to recommend remedial measures for correction of progress as may be appropriate. The designer or his authorized representative shall be the coordinator of the conferences and shall preside as chairman. The Contractor shall turn over a copy of his daily reports to the Designer and Owner at the job site progress conference. Owner will determine daily report format.

- e. The Contractor(s) shall, employ an engineer or a land surveyor licensed in the State of North Carolina to lay out the work and to establish a bench mark in a location where same will not be disturbed and where direct instruments sights may be taken.
- f. The designer shall designate a Project Expediter on projects involving two or more prime contracts. The Project Expediter shall be designated in the Supplementary General Conditions. The Project Expediter shall have at a minimum the following responsibilities.
 - 1. Prepare the project construction schedule and shall allow all prime Contractors (multi-prime contract) and Subcontractors (single-prime contract) performing general, plumbing, HVAC, and electrical work equal input into the preparation of the initial construction schedule.
 - 2. Maintain a project progress schedule for all Contractors.
 - 3. Give adequate notice to all Contractors to ensure efficient continuity of all phases of the work.
 - 4. Notify the designer of any changes in the project schedule.
 - 5. Recommend to the owner whether payment to a Contractor shall be approved.
- g. It shall be the responsibility of the Project Expediter to cooperate with and obtain from several prime Contractors and Subcontractors on the job, their respective work activities and integrate these activities into a project construction schedule in form of a detailed bar chart or Critical Path Method (CPM), schedule. Each prime Contractor shall provide work activities within fourteen (14) days of request by the Project Expediter. A “work activity”, for scheduling purposes, shall be any component or contractual requirement of the project requiring at least one (1) day, but not more than fourteen (14) days, to complete or fulfill. The project construction schedule shall graphically show all salient features of the work required to construct the project from start to finish and within the allotted time established in the contract. The time (in days) between the Contractor’s early completion and contractual completion dates is part of the project total float time; and shall be used as such, unless amended by a change order. On a multi-prime project, each prime Contractor shall review the proposed construction schedule and approve same in writing. The Project Expediter shall submit the proposed construction schedule to the designer for comments. The complete Project construction schedule shall be of the type set forth in the Supplementary General Conditions or subparagraph (1) or (2) below, as appropriate:

1. For a project with total contracts of \$500,000 or less, a bar chart schedule will satisfy the above requirement. The schedule shall indicate the estimated starting and completion dates for each major element of the work.
2. For a project with total contracts over \$500,000, a Critical Path Method (CPM) schedule shall be utilized to control the planning and scheduling of the Work. The CPM schedule shall be the responsibility of the Project Expediter and shall be paid for by the Project Expediter.

Bar Chart Schedule: Where a bar chart schedule is required, it shall be time-scaled in weekly increments, shall indicate the estimated starting and completion dates for each major element of the work by trade and by area, level, or zone, and shall schedule dates for all salient features, including but not limited to the placing of orders for materials, submission of shop drawings and other Submittals for approval, approval of shop drawings by designers, the manufacture and delivery of material, the testing and the installation of materials, supplies and equipment, and all Work activities to be performed by the Contractor. The Contractor shall allow sufficient time in his schedule for all commissioning, required inspections and completion of final punchlist(s). Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

CPM Schedule: Where a CPM schedule is required, it shall be in time-scaled precedence format using the Project Expediter's logic and time estimates. The CPM schedule shall be drawn or plotted with activities grouped or zoned by Work area or subcontract as opposed to a random (or scattered) format. The CPM schedule shall be time-scaled on a weekly basis and shall be drawn or plotted at a level of detail and logic which will schedule all salient features of the work to be performed by the Contractor. The Contractor shall allow sufficient time in his schedule for all commissioning, required inspections and completion of final punchlist(s). Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

The CPM schedule will identify and describe each activity, state the duration of each activity, the calendar dates for the early and late start and the early and late finish of each activity, and clearly highlight all activities on the critical path. "Total float" and "free float" shall be indicated for all activities. Float time shall not be considered for the exclusive use or benefit of either the Owner or the Contractor, but must be allocated in the best interest of completing the Work within the Contract time. Extensions to the Contract time, when granted by Change Order, will be granted only when equitable time adjustment exceeds the Total Float in the activity or path of activities affected by the change. On contracts with a price over \$2,500,000, the CPM schedule shall also show what part of the Contract Price is attributable to each activity on the schedule, the sum of which for all activities shall equal the total Contract Price.

Early Completion of Project: The Contractor may attempt to complete the project prior to the Contract Completion Date. However, such planned early completion shall be for the Contractor's convenience only and shall not create any additional rights of the Contractor or obligations of the Owner under this Contract, nor shall it change the Time

for Completion or the Contract Completion Date. The Contractor shall not be required to pay liquidated damages to the Owner because of its failure to complete by its planned earlier date. Likewise, the Owner shall not pay the Contractor any additional compensation for early completion nor will the Owner owe the Contractor any compensation should the Owner, its officers, employees, or agents cause the Contractor not to complete earlier than the date required by the Contract Documents.

- h. The proposed project construction schedule shall be presented to the designer no later than fifteen (15) days after written notice to proceed. No application for payment will be processed until this schedule is accepted by the designer and owner.
- i. The approved project construction schedule shall be distributed to all Contractors and displayed at the job site by the Project Expediter.
- j. The several Contractors shall be responsible for their work activities and shall notify the Project Expediter of any necessary changes or adjustments to their work. The Project Expediter shall maintain the project construction schedule, making biweekly adjustments, updates, corrections, etc., that are necessary to finish the project within the Contract time, keeping all Contractors and the designer fully informed. Copy of a bar chart schedule annotated to show the current progress shall be submitted by the Contractor(s) to the designer, along with monthly request for payment. For project requiring CPM schedule, the Contractor shall submit a biweekly report of the status of all activities. The bar chart schedule or status report shall show the actual Work completed to date in comparison with the original Work scheduled for all activities. If any activities of the work of several Contractors are behind schedule, the Contractor must indicate in writing, what measures will be taken to bring each such activity back on schedule and to ensure that the Contract Completion Date is not exceeded. A plan of action and recovery schedule shall be developed and submitted to the designer by the Project Expediter, when (1) the Contractor's report indicates delays, that are in the opinion of the designer or the owner, of sufficient magnitude that the Contractor's ability to complete the work by the scheduled completion is brought into question; (2) the updated construction schedule is thirty (30) days behind the planned or baseline schedule and no legitimate time extensions, as determined by the Designer, are in process; and (3) the Contractor desires to make changes in the logic (sequencing of work) or the planned duration of future activities of the CPM schedule which, in the opinion of the designer or the owner, are of a major nature. The plan of action, when required shall be submitted to the Owner for review within two (2) business days of the Contractor receiving the Owner's written demand. The recovery schedule, when required, shall be submitted to the Owner within five (5) calendar days of the Contractor's receiving the Owner's written demand. Failure to provide an updated construction schedule or a recovery schedule may be grounds for rejection of payment applications or withholding of funds as set forth in Article 33.
- k. The Project Expediter shall notify each Contractor of such events or time frames that are critical to the progress of the job. Such notice shall be timely and reasonable. Should the progress be delayed due to the work of any of the several Contractors, it shall be the duty of the Project Expediter to immediately notify the Contractor(s) responsible for such delay, the designer, the Granville County Inspections Division and other prime Contractors. The designer shall determine the Contractor(s) who caused the delays and notify the bonding company of the responsible Contractor(s) of the delays; and shall make a recommendation to the owner regarding further action.
- l. Designation as Project Expediter entails an additional project control responsibility and does not alter in any way the responsibility of the Contractor so designated, nor the

responsibility of the other Contractors involved in the project. The project expeditor's Superintendent(s) shall be in attendance at the Project site at all times when work is in progress unless conditions are beyond the control of the Contractor or until termination of the Contract in accordance with the Contract Documents. It is understood that such Superintendent shall be acceptable to the Owner and Designer and shall be the one who will be continued in that capacity for the duration of the project unless he ceases to be on the Contractor's payroll or the Owner otherwise agrees. The Superintendent shall not be employed on any other project for or by the Contractor or by any other entity during the course of the Work. If the Superintendent is employed by the Contractor on another project without the Owner's approval, then the Owner may deduct from the Contractor's monthly general condition costs and amount representing the Superintendent's cost and shall deduct that amount for each month thereafter until the Contractor has the Superintendent back on the Owner's Project full-time.

ARTICLE 15 - SEPARATE CONTRACTS AND CONTRACTOR RELATIONSHIPS

- a. Effective from January 1, 2002, Chapter 143, Article 8, was amended, to allow public contracts to be delivered by the following delivery methods: single-prime, dual (single-prime and separate-prime), construction manager at risk, and alternative contracting method as approved by the State Building Commission. The owner reserves the right to prepare separate specifications, receive separate bids, and award separate contracts for such other major items of work as may be in the best interest of the State. For the purposes of a single prime contract, refer to Article 1 – Definitions.
- b. All Contractors shall cooperate with each other in the execution of their work, and shall plan their work in such manner as to avoid conflicting schedules or delay of the work. See Article 14, Construction Supervision.
- c. If any part of Contractor's work depends upon the work of another Contractor, defects which may affect that work shall be reported to the designer in order that prompt inspection may be made and the defects corrected. Commencement of work by a Contractor where such condition exists will constitute acceptance of the other Contractor's work as being satisfactory in all respects to receive the work commenced, except as to defects which may later develop. The designer shall be the judge as to the quality of work and shall settle all disputes on the matter between Contractors.
- d. Any mechanical or electrical work such as sleeves, inserts, chases, openings, penetrations, etc., which is located in the work of the general Contractor shall be built in by the general Contractor. The respective mechanical and electrical Contractors shall set all sleeves, inserts and other devices that are to be incorporated into the structure in cooperation and under the supervision of the general Contractor. The responsibility for the exact location of such items shall be that of the mechanical and/or electrical Contractor.
- e. The designer and the owner shall have access to the work whenever it is in preparation and progress and during normal working hours. The Contractor shall provide facilities for such access so the designer may perform his functions under the contract documents.
- f. Should a Contractor cause damage to the work or property of another Contractor, he shall be directly responsible, and upon notice, shall promptly settle the claim or otherwise resolve the dispute.

ARTICLE 16 - SUBCONTRACTS AND SUBCONTRACTORS

- a. Within thirty (30) days after award of the contract, the Contractor shall submit to the designer and owner a list giving the names and addresses of Subcontractors and equipment and material suppliers he proposes to use, together with the scope of their respective parts of the work. Should any Subcontractor be disapproved by the designer or owner, the Contractor shall submit a substitute for approval. The designer and owner shall act promptly in the approval of Subcontractors, and when approval of the list is given, no changes of Subcontractors will be permitted except for cause or reason considered justifiable by the designer or owner.
- b. The designer will furnish to any Subcontractor, upon request, evidence regarding amounts of money paid to the Contractor on account of the Subcontractor's work.
- c. The Contractor is and remains fully responsible for his own acts or omissions as well as those of any Subcontractor or of any employee of either. The Contractor agrees that no contractual relationship exists between the Subcontractor and the owner in regard to the contract, and that the Subcontractor acts on this work as an agent or employee of the Contractor.
- d. The owner reserves the right to limit the amount of portions of work to be subcontracted as hereinafter specified.

ARTICLE 17 - CONTRACTOR AND SUBCONTRACTOR RELATIONSHIPS

The Contractor agrees that the terms of these contract documents shall apply equally to each Subcontractor as to the Contractor, and the Contractor agrees to take such action as may be necessary to bind each Subcontractor to these terms. The Contractor further agrees to conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Inc., with respect to Contractor-Subcontractor relationships, and that payments to Subcontractors shall be made in accordance with the provisions of G.S. 143-134.1 titled Interest on final payments due to prime Contractors: payments to Subcontractors.

- a. On all public construction contracts which are let by a board or governing body of the state government or any political subdivision thereof, except contracts let by the Department of Transportation pursuant to G.S. 136-28.1, the balance due prime Contractors shall be paid in full within 45 days after respective prime contracts of the project have been accepted by the owner, certified by the architect, engineer or designer to be completed in accordance with terms of the plans and specifications, or occupied by the owner and used for the purpose for which the project was constructed, whichever occurs first. Provided, however, that whenever the architect or consulting engineer in charge of the project determines that delay in completion of the project in accordance with terms of the plans and specifications is the fault of the Contractor, the project may be occupied and used for the purposes for which it was constructed without payment of any interest on amounts withheld past the 45day limit. No payment shall be delayed because of the failure of another prime Contractor on such project to complete his contract. Should final payment to any prime Contractor beyond the date such contracts have been certified to be completed by the designer or architect, accepted by the owner, or occupied by the owner and used for the purposes for which the project was constructed, be delayed by more than 45 days, said prime Contractor shall be paid interest, beginning on the 46th day, at the rate of one percent (1%) per month or fraction thereof unless a lower rate is

agreed upon on such unpaid balance as may be due. In addition to the above final payment provisions, periodic payments due a prime Contractor during construction shall be paid in accordance with the payment provisions of the contract documents or said prime Contractor shall be paid interest on any such unpaid amount at the rate stipulated above for delayed final payments. Such interest shall begin on the date the payment is due and continue until the date on which payment is made. Such due date may be established by the terms of the contract. Funds for payment of such interest on state-owned projects shall be obtained from the current budget of the owning department, institution or agency. Where a conditional acceptance of a contract exists, and where the owner is retaining a reasonable sum pending correction of such conditions, interest on such reasonable sum shall not apply.

- b. Within seven days of receipt by the prime Contractor of each periodic or final payment, the prime Contractor shall pay the Subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the Subcontractor be delayed by more than seven days after receipt of periodic or final payment by the prime Contractor, the prime Contractor shall pay the Subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due.
- c. The percentage of retainage on payments made by the prime Contractor to the Subcontractor shall not exceed the percentage of retainage on payments made by the owner to the prime Contractor. Any percentage of retainage on payments made by the prime Contractor to the Subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime Contractor shall be subject to interest to be paid by the prime Contractor to the Subcontractor at the rate of one percent (1%) per month or fraction thereof.
- d. Nothing in this section shall prevent the prime Contractor at the time of application and certification to the owner from withholding application and certification to the owner for payment to the Subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of Subcontractor to make timely payments for labor, equipment and materials; damage to prime Contractor or another Subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by owner.

ARTICLE 18 - DESIGNER'S STATUS

- a. The designer shall provide general administration of the performance of construction contracts, including liaison and necessary inspection of the work to ensure compliance with plans and specifications. He is the agent of the owner only for the purpose of constructing this work and to the extent stipulated in the contract documents. He has authority to direct work to be performed, to stop work, to order work removed, or to order corrections of faulty work, where any such action by the designer may be necessary to assure successful completion of the work.
- b. The designer is the impartial interpreter of the contract documents, and, as such, he shall exercise his powers under the contract to enforce faithful performance by both the owner and the Contractor, taking sides with neither.
- c. Should the designer cease to be employed on the work for any reason whatsoever, then the owner shall employ a competent replacement who shall assume the status of the former designer.

- d. The designer and his consultants will make inspections of the project. He will inspect the progress, the quality and the quantity of the work.
- e. The designer and the owner shall have access to the work whenever it is in preparation and progress during normal working hours. The Contractor shall provide facilities for such access so the designer and owner may perform their functions under the contract documents.
- f. Based on the designer's inspections and evaluations of the project, the designer shall issue interpretations, directives and decisions as may be necessary to administer the project. His decisions relating to artistic effect and technical matters shall be final, provided such decisions are within the limitations of the contract.

ARTICLE 19 - CHANGES IN THE WORK

- a. The owner may have changes made in the work covered by the contract. These changes will not invalidate and will not relieve or release the Contractor from any guarantee given by him pertinent to the contract provisions. These changes will not affect the validity of the guarantee bond and will not relieve the surety or sureties of said bond. All extra work shall be executed under conditions of the original contract.
- b. Except in an emergency endangering life or property, no change shall be made by the Contractor except upon receipt of approved change order or written field order from the designer, countersigned by the owner authorizing such change. No claim for adjustments of the contract price shall be valid unless this procedure is followed.

A field order, transmitted by fax, electronically, or hand delivered, may be used where the change involved impacts the critical path of the work. A formal change order shall be issued as expeditiously as possible.

In the event of emergency endangering life or property, the Contractor may be directed to proceed on a time and material basis whereupon the Contractor shall proceed and keep accurately on such form as specified by the designer or owner, a correct account of costs together with all proper invoices, payrolls and supporting data. Upon completion of the work the change order will be prepared as outlined under either Method "c(1)" or Method "c(2)" or both.

- c. In determining the values of changes, either additive or deductive, Contractors are restricted to the use of the following methods:
 - 1. Where the extra work involved is covered by unit prices quoted in the proposal, or subsequently agreed to by the Contractor, Designer, and Owner the value of the change shall be computed by application of unit prices based on quantities, estimated or actual as agreed of the items involved, except in such cases where a quantity exceeds the estimated quantity allowance in the contract by one hundred percent (100%) or more. In such cases, either party may elect to proceed under subparagraph c2 herein. If neither party elects to proceed under c2, then unit prices shall apply.
 - 2. The contracting parties shall negotiate and agree upon the equitable value of the change prior to issuance of the change order, and the change order shall stipulate the corresponding lump sum adjustment to the contract price.

- d. Under Paragraph "b" and Methods "c(2)" above, the allowances for overhead and profit combined shall be as follows: all Contractors (the single contracting entity (prime), his Subcontractors(1st tier subs), or their sub-Subcontractors (2nd tier subs, 3rd tier subs, etc.) shall be allowed a maximum of 10% on work they each self-perform; the prime Contractor shall be allowed a maximum of 5% on contracted work of his 1st tier sub; 1st tier, 2nd tier, 3rd tier, etc Contractors shall be allowed a maximum of 2.5% on the contracted work of their subs. ; Under Method "c(1)", no additional allowances shall be made for overhead and profit. In the case of deductible change orders, under Method "c(2)" and Paragraph (b) above, the Contractor shall include no less than five percent (5%) profit, but no allowances for overhead.
- e. The term "net cost" as used herein shall mean the difference between all proper cost additions and deductions. The "cost" as used herein shall be limited to the following:
1. The actual costs of materials and supplies incorporated or consumed as part of the work;
 2. The actual costs of labor expended on the project site; labor expended in coordination, change order negotiation, record document maintenance, shop drawing revision or other tasks necessary to the administration of the project are considered overhead whether they take place in an office or on the project site.
 3. The actual costs of labor burden, limited to the costs of social security (FICA) and Medicare/Medicaid taxes; unemployment insurance costs; health/dental/vision insurance premiums; paid employee leave for holidays, vacation, sick leave, and/or petty leave, not to exceed a total of 30 days per year; retirement contributions; worker's compensation insurance premiums; and the costs of general liability insurance when premiums are computed based on payroll amounts; the total of which shall not exceed thirty percent (30%) of the actual costs of labor;
 4. The actual costs of rental for tools, excluding hand tools; equipment; machinery; and temporary facilities required for the work;
 5. The actual costs of premiums for bonds, insurance, permit fees, and sales or use taxes related to the work.

Overtime and extra pay for holidays and weekends may be a cost item only to the extent approved by the owner.

- f. Should concealed conditions be encountered in the performance of the work below grade, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the contract documents, the contract sum and time for completion may be equitably adjusted by change order upon claim by either party made within thirty (30) days after the condition has been identified. The cost of such change shall be arrived at by one of the foregoing methods. All change orders shall be supported by a unit cost breakdown showing method of arriving at net cost as defined above.
- g. In all change orders, the procedure will be for the designer to request proposals for the change order work in writing. The Contractor will provide such proposal and supporting data in suitable format. The designer shall verify correctness. Delay in the processing of the change order due to lack of proper submittal by the Contractor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within fourteen (14) days after receipt of the Contractor's accepted proposal including all supporting documentation required by the designer, the designer shall prepare the change order and forward to the Contractor for his signature or otherwise respond, in writing, to

the Contractor's proposal. Within seven (7) days after receipt of the change order executed by the Contractor, the designer shall, certify the change order by his signature, and forward the change order and all supporting data to the owner for the owner's signature. The owner shall execute the change order within seven (7) days of receipt. In case of emergency or extenuating circumstances, approval of changes may be obtained verbally by telephone or field orders approved by all parties, then shall be substantiated in writing as outlined under normal procedure.

- h. At the time of signing a change order, the Contractor shall be required to certify as follows:

"I certify that my bonding company will be notified forthwith that my contract has been changed by the amount of this change order, and that a copy of the approved change order will be mailed upon receipt by me to my surety."

- i. A change order, when issued, shall be full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- j. If, during the progress of the work, the owner requests a change order and the Contractor's terms are unacceptable, the owner may require the Contractor to perform such work on a time and material basis whereupon the Contractor shall proceed and keep accurately on such form as specified by the Designer or owner, a correct account of cost together with all proper invoices, payrolls and supporting data. Upon completion of the work a change order will be prepared with allowances for overhead and profit per paragraph d. above and "net cost" and "cost" per paragraph e. above. Without prejudice, nothing in this paragraph shall preclude the owner from performing or to have performed that portion of the work requested in the change order.

ARTICLE 20 - CLAIMS FOR EXTRA COST

- a. Should the Contractor consider that as a result of instructions given by the designer, he is entitled to extra cost above that stated in the contract, he shall give written notice thereof to the designer within seven (7) days without delay. The written notice shall clearly state that a claim for extra cost is being made and shall provide a detailed justification for the extra cost. The Contractor shall not proceed with the work affected until further advised, except in emergency involving the safety of life or property, which condition is covered in Article 19(b) and Article 11(h). No claims for extra compensation shall be considered unless the claim is so made. The designer shall render a written decision within seven (7) days of receipt of claim.
- b. The Contractor shall not act on instructions received by him from persons other than the designer, and any claims for extra compensation or extension of time on account of such instruction will not be honored. The designer shall not be responsible for misunderstandings claimed by the Contractor of verbal instructions which have not been confirmed in writing, and in no case shall instructions be interpreted as permitting a departure from the contract documents unless such instruction is confirmed in writing and supported by a properly authorized change order.
- c. Should a claim for extra compensation that complies with the requirements of (a) above by the Contractor and is denied by the designer or owner, the Contractor may follow the dispute resolution procedures set out in Article 55.

ARTICLE 21 - MINOR CHANGES IN THE WORK

The designer will have the authority to order minor changes in the work not involving an adjustment in the contract sum or time for completion, and not inconsistent with the intent of the contract documents. Such changes shall be effected by written order and shall be binding on the owner and the Contractor.

ARTICLE 22 - UNCORRECTED FAULTY WORK

Should the correction of faulty or damaged work be considered inadvisable or inexpedient by the owner and the designer, the owner shall be reimbursed by the Contractor. A change order will be issued to reflect a reduction in the contract sum.

ARTICLE 23 - TIME OF COMPLETION, DELAYS, EXTENSION OF TIME

- a. The time of completion is stated in the Supplementary General Conditions and in the Form of Construction Contract. The Project Expediter, upon notice of award of contract, shall prepare a construction schedule to complete the project within the time of completion as required by Article 14.
- b. The Contractors shall commence work to be performed under this agreement on a date to be specified in a written Notice to Proceed from the designer and shall fully complete all work hereunder within the time of completion stated. Time is of the essence and the Contractor acknowledges the Owner will likely suffer financial damage for failure to complete the work within the time of completion. For each day in excess of the above number of days, the Contractor(s) shall pay the owner the sum stated as liquidated damages reasonably estimated in advance to cover the losses to be incurred by the owner by reason of failure of said Contractor(s) to complete the work within the time specified, such time being in the essence of this contract and a material consideration thereof.
- c. In the event of multiple prime Contractors, the designer shall be the judge as to the division of responsibility between the Contractor(s), based on the construction schedule, weekly reports and job records, and shall apportion the amount of liquidated damages to be paid by each of them, according to delay caused by any or all of them.
- d. If the Contractor is delayed at any time in the progress of his work solely by any act or negligence of the owner, the designer, or by any employee of either; by any separate Contractor employed by the owner; by changes ordered in the work; by labor disputes at the project site; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond the Contractor's control; or by any other causes which the designer and owner determine may justify the delay, then the contract time may be extended by change order only for the time which the designer and owner may determine is reasonable.

Time extensions will not be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where work is performed. For purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where work is performed and on daily weather logs kept on the job site by the Contractor reflecting the effect of the weather on progress of the work and initialed by the designer's representative. No weather delays shall be considered after the building is dried in unless work claimed to be delayed is on the critical path of the baseline schedule or approved updated schedule. Time extensions for weather delays, acts of God, labor disputes, fire, delays in transportation, unavoidable casualties or other delays which are

beyond the control of the Owner do not entitle the Contractor to compensable damages for delays. Any Contractor claim for compensable damages for delays is limited to delays caused solely by the owner or its agents. Contractor caused delays shall be accounted for before owner or designer caused delays in the case of concurrent delays.

- e. Request for extension of time shall be made in writing to the designer, copies to the owner, within twenty (20) days following cause of delay. In case of continuing cause for delay, the Contractor shall notify the Designer to the designer, copies to the owner, of the delay within 20 days of the beginning of the delay and only one claim is necessary.
- f. The Contractor shall notify his surety in writing of extension of time granted.
- g. No claim for time extension shall be allowed on account of failure of the designer to furnish drawings or instructions until twenty (20) days after demand for such drawings and/or instructions. See Article 5c. Demand must be in written form clearly stating the potential for delay unless the drawings or instructions are provided. Any delay granted will begin after the twenty (20) day demand period is concluded.

ARTICLE 24 - PARTIAL UTILIZATION/BENEFICIAL OCCUPANCY

- a. The owner may desire to occupy or utilize all or a portion of the project prior to the completion of the project.
- b. Should the owner request a utilization of a building or portion thereof, the designer shall perform a designer final inspection of area after being notified by the Contractor that the area is ready for such. After the Contractor has completed designer final inspection punch list and the designer has verified, then the designer shall schedule a beneficial occupancy inspection at a time and date acceptable to the owner and Contractor(s) and Granville County Inspections Division. If beneficial occupancy is granted by the Granville County Inspections Division, in such areas the following will be established:
 - 1. The beginning of guarantees and warranties period for the equipment necessary to support. in the area.
 - 2. The owner assumes all responsibility for utility costs for entire building.
 - 2. Contractor will obtain consent of surety.
 - 3. Contractor will obtain endorsement from insurance company permitting beneficial occupancy.
- c. The owner shall have the right to exclude the Contractor from any part of the project which the designer has so certified to be substantially complete, but the owner will allow the Contractor reasonable access to complete or correct work to bring it into compliance with the contract.
- d. Occupancy by the owner under this article will in no way relieve the Contractor from his contractual requirement to complete the project within the specified time. The Contractor will not be relieved of liquidated damages because of beneficial occupancy. The designer may prorate liquidated damages based on the percentage of project occupied.

ARTICLE 25 - FINAL INSPECTION, ACCEPTANCE, AND PROJECT CLOSEOUT

- a. Upon notification from the Contractor(s) that the project is complete and ready for inspection, the designer shall make a Designer final inspection to verify that the project is

complete and ready for final inspection. Prior to final inspection, the Contractor(s) shall complete all items requiring corrective measures noted at the Designer final inspection. The designer shall schedule a final inspection at a time and date acceptable to the owner, Contractor(s) and Granville County Inspections Division.

- b. At the final inspection, the designer and his consultants shall, if job conditions warrant, record a list of items that are found to be incomplete or not in accordance with the contract documents. At the conclusion of the final inspection, the designer and Granville County Inspections Division representative shall make one of the following determinations:
 - 1. That the project is completed and accepted.
 - 2. That the project will be accepted subject to the correction of the list of discrepancies (punch list). All punch list items must be completed within thirty (30) days of final inspection or the owner may invoke Article 28, Owner's Right to Do Work.
 - 4. That the project is not complete and another date for a final inspection will be established.
- c. Within fourteen (14) days of final acceptance per Paragraph b1 or within fourteen (14) days after completion of punch list per Paragraph b2 above, the designer shall certify the work and issue applicable certificate(s) of compliance.
- d. Any discrepancies listed or discovered after the date of final inspection and acceptance under Paragraphs b1 or b2 above shall be handled in accordance with Article 42, Guarantee.
- f. The final acceptance date will establish the following:
 - 1. The beginning of guarantees and warranties period.
 - 2. The date on which the Contractor's insurance coverage for public liability, property damage and builder's risk may be terminated.
 - 3. That no liquidated damages (if applicable) shall be assessed after this date.
 - 4. The termination date of utility cost to the Contractor.
- g. Prior to issuance of final acceptance date, the Contractor shall have his authorized representatives visit the project and give full instructions to the designated personnel regarding operating, maintenance, care, and adjustment of all equipment and special construction elements. In addition, the Contractor shall provide to the owner a complete instructional video (media format acceptable to the owner) on the operation, maintenance, care and adjustment of all equipment and special construction elements.**

ARTICLE 26 - CORRECTION OF WORK BEFORE FINAL PAYMENT

- a. Any work, materials, fabricated items or other parts of the work which have been condemned or declared not in accordance with the contract by the designer shall be promptly removed from the work site by the Contractor, and shall be immediately replaced by new work in accordance with the contract at no additional cost to the owner. Work or property of other Contractors or the owner, damaged or destroyed by virtue of such faulty work, shall be made good at the expense of the Contractor whose work is faulty.

- b. Correction of condemned work described above shall commence within twenty-four (24) hours after receipt of notice from the designer, and shall make satisfactory progress, as determined by the designer, until completed.
- c. Should the Contractor fail to proceed with the required corrections, then the owner may complete the work in accordance with the provisions of Article 28.

ARTICLE 27 - CORRECTION OF WORK AFTER FINAL PAYMENT

See Article 35, Performance Bond and Payment Bond, and Article 42, Guarantee. Neither the final certificate, final payment, occupancy of the premises by the owner, nor any provision of the contract, nor any other act or instrument of the owner, nor the designer, shall relieve the Contractor from responsibility for negligence, or faulty material or workmanship, or failure to comply with the drawings and specifications. Contractor shall correct or make good any defects due thereto and repair any damage resulting there from, which may appear during the guarantee period following final acceptance of the work except as stated otherwise under Article 42, Guarantee. The owner will report any defects as they may appear to the Contractor and establish a time limit for completion of corrections by the Contractor. The owner will be the judge as to the responsibility for correction of defects.

ARTICLE 28 - OWNER'S RIGHT TO DO WORK

If, during the progress of the work or during the period of guarantee, the Contractor fails to prosecute the work properly or to perform any provision of the contract, the owner, after seven (7) days' written notice sent by certified mail, return receipt requested, to the Contractor from the designer, may perform or have performed that portion of the work. The cost of the work may be deducted from any amounts due or to become due to the Contractor, such action and cost of same having been first approved by the designer. Should the cost of such action of the owner exceed the amount due or to become due the Contractor, then the Contractor or his surety, or both, shall be liable for and shall pay to the owner the amount of said excess.

ARTICLE 29 - ANNULMENT OF CONTRACT

If the Contractor fails to begin the work under the contract within the time specified, or the progress of the work is not maintained on schedule, or the work is not completed within the time above specified, or fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work, or shall perform the work unsuitably or shall discontinue the prosecution of the work, or if the Contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency, or allow any final judgment to stand against him unsatisfied for a period of forty-eight (48) hours, or shall 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, sent by certified mail, return receipt requested, to the Contractor and his surety of such delay, neglect or default, specifying the same, and if the Contractor within a period of seven (7) days after such notice shall not proceed in accordance therewith, then the owner shall, declare this contract in default, and, thereupon, the surety shall promptly take over the work and complete the performance of this contract in the manner and within the time frame specified. In the event the surety shall fail to take over the work to be done under this contract within seven (7) days after being so notified and notify the owner in writing, sent by certified mail, return receipt requested, that he is taking the same over and stating that he will diligently pursue and complete the same, the owner shall have full power and authority, without violating the contract, to take the prosecution of the work out of the hands of said Contractor, to appropriate or use any or all contract materials and equipment on the grounds as may be suitable and acceptable and may enter into an agreement, either by public letting or negotiation, for the completion of said contract according to the terms and provisions thereof

or use such other methods as in his opinion shall be required for the completion of said contract in an acceptable manner. All costs and charges incurred by the owner, together with the costs of completing the work under contract, shall be deducted from any monies due or which may become due said Contractor and surety. In case the expense so incurred by the owner shall be less than the sum which would have been payable under the contract, if it had been completed by said Contractor, then the said Contractor and surety shall be entitled to receive the difference, but in case such expense shall exceed the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the owner the amount of said excess.

ARTICLE 30 - CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT

- a. Should the work be stopped by order of a court having jurisdiction, or by order of any other public authority for a period of three months, due to cause beyond the fault or control of the Contractor, or if the owner should fail or refuse to make payment on account of a certificate issued by the designer within forty-five (45) days after receipt of same, then the Contractor, after fifteen (15) days' written notice sent by certified mail, return receipt requested, to the owner and the designer, may suspend operations on the work or terminate the contract.
- b. The owner shall be liable to the Contractor for the cost of all materials delivered and work performed on this contract plus 10 percent overhead and profit and shall make such payment. The designer shall be the judge as to the correctness of such payment.

ARTICLE 31 - REQUEST FOR PAYMENT

- a. Not later than the fifth day of the month, the Contractor shall submit to the designer a request for payment for work done during the previous month. The request shall be in the form agreed upon between the Contractor and the designer, but shall show substantially the value of work done and materials delivered to the site during the period since the last payment, and shall sum up the financial status of the contract with the following information:
 1. Total of contract including change orders.
 2. Value of work completed to date.
 3. Less five percent (5%) retainage, provided however, that after fifty percent (50%) of the Contractor's work has been satisfactorily completed on schedule, with approval of the owner and written consent of the surety, further requirements for retainage will be waived only so long as work continues to be completed satisfactorily and on schedule.
 4. Less previous payments.
 5. Current amount due.
- b. The Contractor, upon request of the designer, shall substantiate the request with invoices of vouchers or payrolls or other evidence.
- c. Prior to submitting the first request, the Contractor shall prepare for the designer a schedule showing a breakdown of the contract price into values of the various parts of the work, so arranged as to facilitate payments to Subcontractors in accordance with Article 17, Contractor and Subcontractor Relationships. The Contractor(s) shall list the

value of each Subcontractor and supplier, identifying each minority business Subcontractor and supplier as listed in Affidavit C, if applicable.

- d. When payment is made on account of stored materials and equipment, such materials must be stored on the owner's property, and the requests for payments shall be accompanied by invoices or bills of sale or other evidence to establish the owner's title to such materials and equipment. Such payments will be made only for materials that have been customized or fabricated specifically for this project. Raw materials or commodity products including but not limited to piping, conduit, CMU, metal studs and gypsum board may not be submitted. Responsibility for such stored materials and equipment shall remain with the Contractor regardless of ownership title. Such stored materials and equipment shall not be removed from the owner's property. Should the space for storage on-site be limited, the Contractor, at his option, shall be permitted to store such materials and/or equipment in a suitable space off-site. Should the Contractor desire to include any such materials or equipment in his application for payment, they must be stored in the name of the owner in an independent, licensed, bonded warehouse approved by the designer and owner and located as close to the site as possible. The warehouse selected must be approved by the Contractor's bonding and insurance companies; the material to be paid for shall be assigned to the owner and shall be inspected by the designer. Upon approval by the designer and owner of the storage facilities and materials and equipment, payment therefore will be certified. Responsibility for such stored materials and equipment shall remain with the Contractor. Such stored materials and equipment shall not be moved except for transportation to the project site. Under certain conditions, the designer may approve storage of materials at the point of manufacture, which conditions shall be approved by the designer and the owner prior to approval for the storage and shall include an agreement by the storing party which unconditionally gives Owner absolute right to possession of the materials at any time. Bond, security and insurance protection shall continue to be the responsibility of the Contractor(s).
- e. In the event of beneficial occupancy, retainage of funds due the Contractor(s) may be reduced to an equitable amount to cover the list of items to be completed or corrected. Retainage may not be reduced to less than two and one-half (2 1/2) times the estimated value of the work to be completed or corrected. Reduction of retainage must be with the consent and approval of the Contractor's bonding company.

ARTICLE 32 - CERTIFICATES OF PAYMENT AND FINAL PAYMENT

- a. Within five (5) days from receipt of request for payment from the Contractor, the designer shall issue and forward to the owner a certificate for payment. This certificate shall indicate the amount requested or as approved by the designer. If the certificate is not approved by the designer, he shall state in writing to the Contractor and the owner his reasons for withholding payment.
- b. No certificate issued or payment made shall constitute an acceptance of the work or any part thereof. The making and acceptance of final payment shall constitute a waiver of all claims by the owner except:
 - 1. Claims arising from unsettled liens or claims against the Contractor.
 - 2. Faulty work or materials appearing after final payment.
 - 3. Failure of the Contractor to perform the work in accordance with drawings and specifications, such failure appearing after payment.

4. As conditioned in the performance bond and payment bond.
- c. The making and acceptance of final payment shall constitute a waiver of all claims by the Contractor except those claims previously made and remaining unsettled (Article 20(c)).
- d. Prior to submitting request for final payment to the designer for approval, the Contractor shall fully comply with all requirements specified in the “project closeout” section of the specifications. These requirements include but not limited to the following:
 1. Submittal of Product and Operating Manuals, Warranties and Bonds, Guarantees, Maintenance Agreements, As-Built Drawings, Certificates of Inspection or Approval from agencies having jurisdiction. (The designer must approve the Manuals prior to delivery to the owner).
 2. Transfer of Required attic stock material and all keys in an organized manner.
 3. Record of Owner’s training.
 4. Resolution of any final inspection discrepancies.
 5. Granting access to Contractor’s records, if Owner’s internal auditors have made a request for such access pursuant to Article 52.
- e. The Contractor shall forward to the designer, the final application for payment along with the following documents:
 1. List of minority business Subcontractors and material suppliers showing breakdown of contract amounts and total actual payments to subs and material suppliers.
 2. Affidavit of Release of Liens.
 3. Affidavit of Contractors of payment to material suppliers and Subcontractors. (See Article 36).
 4. Consent of Surety to Final Payment.
 5. Certificates of state agencies required by state law.
- f. The designer will not authorize final payment until the work under contract has been certified by designer, certificates of compliance issued, and the Contractor has complied with the closeout requirements. The designer shall forward the Contractor’s final application for payment to the owner along with respective certificate(s) of compliance required by law.

ARTICLE 33 - PAYMENTS WITHHELD

- a. The designer may withhold payment for the following reasons:
 1. Faulty work not corrected.

2. The unpaid balance on the contract is insufficient to complete the work in the judgment of the designer.
 3. To provide for sufficient contract balance to cover liquidated damages that will be assessed.
- b. The Owner may authorize the withholding of payment for the following reasons:
 1. Claims filed against the Contractor or evidence that a claim will be filed.
 2. Evidence that Subcontractors have not been paid.
 - c. The Owner may withhold all or a portion of Contractor's general conditions costs set forth in the approved schedule of values, if Contractor has failed to comply with: (1) a request to access its records by Owner's internal auditors pursuant to Article 52; (2) a request for a plan of action and/or recovery schedule under Article 14.j or provide The Owner; (3) a request to provide an electronic copies of Contractor's baseline schedule, updates with all logic used to create the schedules in the original format of the scheduling software; and (4) Contractor's failure to have its Superintendent on the Project full-time.
 - d. When grounds for withholding payments have been removed, payment will be released. Delay of payment due the Contractor without cause will make owner liable for payment of interest to the Contractor in accordance with G.S. 143-134.1. As provided in G.S.143-134.1(e) the owner shall not be liable for interest on payments withheld by the owner for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

ARTICLE 34 - MINIMUM INSURANCE REQUIREMENTS

The work under this contract shall not commence until the Contractor has obtained all required insurance and verifying certificates of insurance have been approved in writing by the owner. These certificates shall document that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the owner of such alteration or cancellation. In addition, Contractor shall be named an additional insured under such automobile and commercial general liability policies. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Contractor shall provide and maintain, until final acceptance, workmen's compensation insurance meeting the statutory requirements of the State of North Carolina, even if not required by law to maintain such insurance. Workers' Compensation insurance shall have at least the following limits: Employers Liability - \$1,000,000 per accident limit, \$1,000,000 disease per policy limit, \$1,000,000 disease each employee limit.

b. Public Liability and Property Damage

The Contractor shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent Contractors,

completed operations, products, contractual, and advertising injury exposures, as shall protect such Contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Contractor or by any Subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$1,000,000 per occurrence/ \$2,000,000 aggregate
Property Damage:	\$1,000,000 per occurrence / \$2,000,000 aggregate

In addition, Contractor shall maintain excess liability/ umbrella coverage with equal or broader coverages than that of underlying policies, including broad form contractual liability with combined single limit for bodily injury and property damage of \$5,000,000 per occurrence.

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the work performed under the contract.

c. Property Insurance (Builder's Risk/Installation Floater)

The Contractor shall purchase and maintain property insurance until final acceptance, upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the owner, the Contractor, the Subcontractors and sub- Subcontractors in the work and shall insure against the perils of fire, wind, rain, flood, extended coverage, and vandalism and malicious mischief. If the owner is damaged by failure of the Contractor to purchase or maintain such insurance, then the Contractor shall bear all reasonable costs properly attributable thereto; the Contractor shall effect and maintain similar property insurance on portions of the work stored off the site when request for payment per articles so includes such portions.

d. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Contractor.

e. Other Insurance

The Contractor shall obtain such additional insurance as may be required by the owner or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

f. Proof of Carriage

The Contractor shall furnish the owner with satisfactory proof of carriage of the insurance required before written approval is granted by the owner.

ARTICLE 35 - PERFORMANCE BOND AND PAYMENT BOND

- a. Each Contractor shall furnish a performance bond and payment bond executed by a surety company authorized to do business in North Carolina. The bonds shall be in the full contract amount. Bonds shall be executed in the form bound with these specifications.
- b. All bonds shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina.

ARTICLE 36 - CONTRACTOR'S AFFIDAVIT

The final payment of retained amount due the Contractor on account of the contract shall not become due until the Contractor has furnished to the owner through the designer an affidavit signed, sworn and notarized to the effect that all payments for materials, services or subcontracted work in connection with his contract have been satisfied, and that no claims or liens exist against the Contractor in connection with this contract. In the event that the Contractor cannot obtain similar affidavits from Subcontractors to protect the Contractor and the owner from possible liens or claims against the Subcontractor, the Contractor shall state in his affidavit that no claims or liens exist against any Subcontractor to the best of his (the Contractor's) knowledge, and if any appear afterward, the Contractor shall save the owner harmless.

ARTICLE 37 - ASSIGNMENTS

The Contractor shall not assign any portion of this contract nor subcontract in its entirety. Except as may be required under terms of the performance bond or payment bond, no funds or sums of money due or become due the Contractor under the contract may be assigned.

ARTICLE 38 - USE OF PREMISES

- a. The Contractor(s) shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits or directions of the designer and owner and shall not exceed those established limits in his operations.
- b. The Contractor(s) shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.
- c. The Contractor(s) shall enforce the designer's and owner's instructions regarding signs, advertisements, fires and smoking.
- d. No firearms, any type of alcoholic beverages, or drugs (other than those prescribed by a physician) will be permitted at the job site.

ARTICLE 39 - CUTTING, PATCHING AND DIGGING

- a. The Contractors shall use the existing facilities for water, electricity, gas, sewer, and other utility services which may be necessary and required for completion of the project including all utilities required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical, and electrical systems.
- b. Any cost brought about by defective or ill-timed work shall be borne by the party responsible therefor.
- c. No Contractor shall endanger any work of another Contractor by cutting, digging or other means. No Contractor shall cut or alter the work of any other Contractor without the consent of the designer and the affected Contractor(s).

ARTICLE 40 - UTILITIES, STRUCTURES, SIGNS

- a. The Contractors shall use the existing facilities for water, electricity, gas, sewer, and other utility services which may be necessary and required for completion of the project including all utilities required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical and electrical systems.
- b. Temporary facilities shall be provided for project workforce toilet facilities, and shall be kept in neat and sanitary condition at all times.

- c. Electricity and water usage are to be moderated only as needed for the alteration work. Prior to operation of permanent mechanical systems, the Project Expediter is responsible for moderate climate control during times of excessive heat or freezing sufficient for completion of the interior finishes.
- d. The appropriate time to start full operation of the mechanical systems and climatic condition shall be jointly determined by the Contractor(s), the designer, and owner. Use of the equipment in this manner shall be subject to the approval of the designer and owner and shall in no way affect the warranty requirements of the Contractor(s).
- e. Each prime Contractor shall be responsible for his permanently fixed service facilities and systems in use during progress of the work. The following procedures shall be strictly adhered to:
 - 1. Prior to final acceptance of work by the Owner after final inspection by the Granville County Inspections Division, each Contractor shall remove and replace any parts of the permanent building systems damaged through use during construction.
 - 2. Temporary filters as recommended by the equipment manufacturer in order to keep the equipment and ductwork clean and free of dust and debris shall be installed in each of the heating and air conditioning units and at each return grille during construction. New filters shall be installed in each unit prior to the owner's acceptance of the work.
 - 3. Extra effort shall be maintained to keep the building and the site adjacent to the building clean and under no circumstances shall air systems be operated if finishing and site work operations are creating dust in excess of what would be considered normal if the building were occupied.
 - 4. It shall be understood that any warranty on equipment presented to the owner shall extend from the day of final acceptance by the owner. The cost of warranting the equipment during operation in the finishing stages of construction shall be borne by the Contractor whose system is utilized.
 - 5. The electrical Contractor shall have all lamps in proper working condition at the time of final project acceptance.
- i. The Project Expediter shall maintain a temporary field office. Space, tables, and chairs are to be provided sufficient for progress meetings with the owner's representatives, architect, and engineers.
- j. The Project Expediter will erect one sign on the project as required. The sign shall be of sound construction, and shall be neatly lettered with black letters on white background. The sign shall bear the name of the project, and the names of prime Contractors on the project, and the name of the designer and consultants. Directional signs may be erected on the owner's property subject to approval of the owner with respect to size, style and location of such directional signs. Such signs may bear the name of the Contractor and a directional symbol. No other signs will be permitted except by permission of the owner.

ARTICLE 41 - CLEANING UP

- a. The Contractors shall keep the building and surrounding area reasonably free from rubbish at all times, and shall remove debris from the site on a timely basis or when directed to do

so by the designer or Project Expediter. The Project Expediter shall provide an onsite refuse container(s) for the use of all Contractors. Each Contractor shall remove their rubbish and debris from the building on a daily basis. The Project Expediter shall broom clean the building as required to minimize dust and dirt accumulation.

- b. The Project Expediter shall provide and maintain suitable all-weather access to the building.
- c. Before final inspection and acceptance of the building, each Contractor shall clean his portion of the work, including glass, hardware, fixtures, masonry, tile and marble (using no acid), clean and wax all floors as specified, and completely prepare the building for use by the owner, with no cleaning required by the owner.

ARTICLE 42 - GUARANTEE

- a. The Contractor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the date of final acceptance of the work or beneficial occupancy and shall replace such defective materials or workmanship without cost to the owner.

- b. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The Contractor shall replace such defective equipment or materials, without cost to the owner, within the manufacturer's warranty period.
- c. Additionally, the owner may bring an action for latent defects caused by the negligence of the Contractor which is hidden or not readily apparent to the owner at the time of beneficial occupancy or final acceptance, whichever occurred first, in accordance with applicable law.
- d. Guarantees for roof, equipment, materials, and supplies shall be stipulated in the specifications sections governing such roof, equipment, materials, or supplies.

ARTICLE 43 - CODES AND STANDARDS

Wherever reference is given to codes, standard specifications or other data published by regulating agencies including, but not limited to, national electrical codes, North Carolina state building codes, federal specifications, ASTM specifications, various institute specifications, etc., it shall be understood that such reference is to the latest edition including addenda published prior to the date of the contract documents.

ARTICLE 44 - INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the owner, the designer and the agents, consultants, board members and employees of the owner and designer, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance or failure of performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, the Contractor's Subcontractor, or the agents of either the Contractor or the Contractor's Subcontractor. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this article.

ARTICLE 45 - TAXES

- a. Federal excise taxes do not apply to materials entering into state work (Internal Revenue Code, Section 3442(3)).
- b. Federal transportation taxes do not apply to materials entering into state work (Internal Revenue Code, Section 3475(b) as amended).
- c. North Carolina sales tax and use tax, as required by law, do apply to materials entering into state work and such costs shall be included in the bid proposal and contract sum.
- d. Local option sales and use taxes, as required by law, do apply to materials entering into state work as applicable and such costs shall be included in the bid proposal and contract sum.
- e. Accounting Procedures for Refund of County Sales & Use Tax

Amount of county sales and use tax paid per Contractor's statements:

Contractors performing contracts for state agencies shall give the state agency for whose project the property was purchased a signed statement containing the information listed in G.S. 105-164.14(e).

The Department of Revenue has agreed that in lieu of obtaining copies of sales receipts from Contractors, an agency may obtain a certified statement as of April 1, 1991 from the Contractor setting forth the date, the type of property and the cost of the property purchased from each vendor, the county in which the vendor made the sale and the amount of local sales and use taxes paid thereon. If the property was purchased out-of-state, the county in which the property was delivered should be listed. The Contractor should also be notified that the certified statement may be subject to audit.

In the event the Contractors make several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, the counties, and the county sales and use taxes paid thereon.

Name of taxing county: The position of a sale is the retailer's place of business located within a taxing county where the vendor becomes contractually obligated to make the sale. Therefore, it is important that the county tax be reported for the county of sale rather than the county of use.

When property is purchased from out-of-state vendors and the county tax is charged, the county should be identified where delivery is made when reporting the county tax.

Such statement must also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of county sales or use tax paid thereon by the Contractor.

Similar certified statements by his Subcontractors must be obtained by the general Contractor and furnished to the claimant.

Contractors are not to include any tax paid on supplies, tools and equipment which they use to perform their contracts and should include only those building materials, supplies, fixtures and equipment which actually become a part of or annexed to the building or structure.

ARTICLE 46 - EQUAL OPPORTUNITY CLAUSE

The non-discrimination clause contained in Section 202 (Federal) Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the secretary of Labor, are incorporated herein.

ARTICLE 47 - EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

The Contractor(s) agree not to discriminate against any employee or applicant for employment because of physical or mental disabilities in regard to any position for which the employee or applicant is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with such disabilities without discrimination based upon their physical or mental disability in all employment practices.

ARTICLE 48 - ASBESTOS-CONTAINING MATERIALS (ACM)

The Owner has attempted to address all asbestos-containing materials that are to be disturbed in the project. However, there may be other asbestos-containing materials in the work areas

that are not to be disturbed and do not create an exposure hazard.

Contractors are reminded of the requirements of instructions under Instructions to Bidders and General Conditions of the Contract, titled Examination of Conditions. Statute 130A, Article 19, amended August 3, 1989, established the Asbestos Hazard Management Program that controls asbestos abatement in North Carolina. The latest edition of *Guideline Criteria for Asbestos Abatement* from the State Construction Office is to be incorporated in all asbestos abatement projects.

ARTICLE 49 - MINORITY BUSINESS PARTICIPATION

Minority business participation requirements shall be as detailed in the attached **GRANVILLE COUNTY OUTREACH PLAN FOR MINORITY BUSINESSES PARTICIPATION IN BUILDING CONSTRUCTION.**

ARTICLE 50 – [INTENTIONALLY DELETED]

ARTICLE 51 – GIFTS

Pursuant to N.C. Gen. Stat. § 133-32, it is unlawful for any vendor or Contractor (i.e. architect, bidder, Contractor, construction manager, design professional, engineer, Subcontractor, supplier, vendor, etc.), to make gifts or to give favors to any State employee. This prohibition covers those vendors and Contractors who: (1) have a contract with a governmental agency; or (2) have performed under such a contract within the past year; or (3) anticipate bidding on such a contract in the future. For additional information regarding the specific requirements and exemptions, vendors and Contractors are encouraged to review G.S. Sec. 133-32.

During the construction of the Project, the Contractor is prohibited from making gifts to any of the Owner's employees, Owner's project representatives (architect, engineers, construction manager and their employees), employees of the Granville County Inspections Division and/or any other Granville County employee that may have any involvement, influence, responsibilities, oversight, management and/or duties that pertain to and/or relate to the contract administration, financial administration and/or disposition of claims arising from and/or relating to the Contract and/or Project.

ARTICLE 52 – AUDITING-ACCESS TO PERSONS AND RECORDS

To the extent required by N.C. General Statute 147-64.7, the State Auditor shall have access to Contractor's officers, employees, agents and/or other persons in control of and/or responsible for the Contractor's records that relate to this Contracts for purposes of conducting audits under the referenced statute. The Owner's internal auditors shall also have the right to access and copy the Contractor's records relating to the Contract and Project during the term of the Contract and within two years following the completion of the Project/close-out of the Contract to verify accounts, accuracy, information, calculations and/or data affecting and/or relating to Contractor's requests for payment, requests for change orders, change orders, claims for extra work, requests for time extensions and related claims for delay/extended general conditions costs, claims for lost productivity, claims for loss efficiency, claims for idle equipment or labor, claims for price/cost escalation, pass-through claims of Subcontractors and/or suppliers, and/or any other type of claim for payment or damages from Owner and/or its project representatives.

ARTICLE 53 – [INTENTIONALLY DELETED]

ARTICLE 54 – TERMINATION FOR CONVENIENCE

Owner may at any time and for any reason terminate Contractor's services and work at Owner's convenience. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by Owner; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against Owner for any additional compensation or damages in the event of such termination and payment.

ARTICLE 55 – DISPUTE RESOLUTION

a. Mediation. If a dispute arises out of or relates to the contract, or the breach thereof, and if the dispute cannot be settled through negotiations, the parties agree to submit such controversy to mediation for resolution following review by an independent architect or engineer selected by the parties. If the parties cannot agree on an independent architect or engineer to review the matter in dispute, each party shall select its own architect or engineer to review the matter prior to mediation. The parties may use the procedures set forth in the North Carolina General Statutes Rules Implementing Court Ordered Mediated Settlement Conference, where and if applicable. Provided, however, if any controversy between the parties is not resolved by mediation within sixty (60) days after the date the controversy has arisen (hereinafter "Controversy Date"), the parties shall settle such controversy by arbitration in accordance with the terms of the Revised Uniform Arbitration Act, currently codified at Article 45C of the North Carolina General Statutes (N.C.G.S. §1-569.1 et seq.) or any successor statutes thereto. The expenses of mediation shall be shared equally by each party hereto, except that each party will pay the costs of its own legal counsel and all other incidental expenses.

b. Arbitration. Any dispute or controversy arising under the contract which is not resolved by mediation shall be determined and settled by an independent disinterested person agreed upon by the parties to the dispute. If the parties are unable to mutually agree upon an independent arbitrator within thirty (30) days, then each party shall appoint an independent arbitrator within thirty (30) days, and the said two (2) independent arbitrators shall appoint a third independent arbitrator within thirty (30) days, and the three (3) independent arbitrators will resolve the dispute in controversy by majority vote in accordance with the terms of the Revised Uniform Arbitration Act, currently codified at Article 45C of the North Carolina General Statutes (N.C.G.S. §1-569.1 et seq.) or any successor statutes thereto. The parties recognize that certain provisional remedies, including injunctive relief, may be issued by a court of competent jurisdiction as set out in N.C.G.S. §1-569.8 pending the appointment of an arbitrator. The expenses of arbitration shall be shared equally by each party hereto, except that each party will pay the costs of its own legal counsel and all other incidental expenses except as otherwise set forth herein. The parties hereto agree to be bound by the results of the arbitration.

- c. Venue. Venue for any civil litigation and the place of any mediation or arbitration between the parties hereto arising out of or in any way relating to or resulting from this Contract shall be Granville County, North Carolina and the parties hereto consent to the jurisdiction thereof (and of the appropriate appellate courts) and waive any right that they have or may have to venue in any other jurisdiction or to participate in a mediation or arbitration in any other location.
- d. Unless otherwise directed in writing, the Contractor shall carry on the Work and maintain its progress during arbitration proceedings, and the Owner shall continue to make payments to the Contractor in accordance with the Contract Documents.
- e. The arbitrator(s) may award attorneys' fees and costs (including, but in no way limited to, attorneys' fees) to the prevailing party to the extent allowed by law.

GRANVILLE COUNTY OUTREACH PLAN FOR MINORITY BUSINESSES PARTICIPATION IN BUILDING CONSTRUCTION

[Forms](#)

[Links](#)

In accordance with G.S. 143-128.2, these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on Granville County's building construction or repair projects in the amount of \$300,000 or more or for any construction or repair projects in the amount of \$100,000 or more whenever Granville County receives State appropriations for the building project or other State grant funds for the building project, including building projects done by a private entity on a facility to be leased or purchased by Granville County. The outreach plan shall also be applicable to the selection process of architectural, engineering, and Construction Manager-at-Risk services.

Granville County has a current verifiable goal of 10 percent for minority participation for building construction or repair projects.

SECTION A: INTENT

It is the intent of these guidelines that Granville County, as awarding authority for building construction or repair 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 goal of 10 percent for participation by minority businesses in each building construction or repair project as required by GS 143-128.2. Nothing in these guidelines 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 responsible, responsive bid or bids.

SECTION B: DEFINITIONS (All defined terms shall have that definition given to the term in Article 8, Chapter 143 of the North Carolina General Statutes if the term is defined in that Article. If the definitions below differ from those found in Article 8, Chapter 143 of the North Carolina General Statutes, then the definition set out in such Article shall control.

1. Minority - The term "minority person" means 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 Indian peoples of

North America; or

e. Female.

2. Minority Business (MBE) - The term “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 – The term “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. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual. In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.

4. Owner – Granville County.

5. Designer – Any person, firm, partnership, or corporation which has contracted with Granville County to perform architectural or engineering work.

6. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

7. 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.

8. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with Granville County to perform building construction or repair work.

9. Subcontractor - A firm 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 his subcontract.

SECTION C: MINORITY OUTREACH PLAN AND GUIDELINES

The following strategies may be used to encourage participation from MBEs.

1. Work with minority-focused and small business groups that support MBE inclusion in the solicitation of bids.
2. Place emphasis on the importance of soliciting certified MBE firms for subcontracting opportunities at pre-bid conferences and in the bid documents. Encourage prime contractors to solicit bids for subcontracts from MBE firms.
3. Provide detailed information to majority contractors concerning the bidding and good faith efforts requirements by holding meetings with the contractors.
4. Assess the effectiveness of the MBE program, and identify opportunities to enhance it by evaluating MBE participation and compliance and reviewing the good faith efforts provided in bid packages.
5. Identify subcontracting opportunities unique to each construction contract and project and target certified MBE firms that have expressed an interest in Granville County projects. Identify these opportunities and contact interested businesses no later than 10 days prior to the bid opening and provide a list of prime contractors who plan to participate in the project.
6. Build new and strengthen existing business relationships through networking. Continue communicating with other North Carolina public agencies to find out how their MBE outreach programs are working and to share “best practices” and ideas to improve programs.
7. Enhance Granville County’s web page by including the outreach plan and guidelines, listing good faith efforts, creating links to MBE resources, and creating awareness of specific subcontracting opportunities.
8. Make available to minority-focused agencies a list of subcontracting opportunities when they are identified, no later than 10 days prior to the bid opening, and a list of prime bidders that subcontractors may wish to contact for subcontracting consideration.
9. Maintain or continue to maintain a database specifically for MBE firms and majority contractors to ensure those firms wishing to do business with Granville County have access to up-to-date information.
10. Advertise upcoming bid opportunities in minority-focused media.
11. Work with architects and engineers to make subcontracting opportunities more noticeable and more easily understood by potential contractors and subcontractors.

Designer

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

1. Attend the scheduled pre-bid conference to explain minority business requirements to the prospective bidders.

2. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
3. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
4. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) – (i.e. bidders’ proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.
5. During construction phase of the project, review documentation for contract payment to MBEs (e.g. state form “Appendix E: MBE Documentation for Contract Payment” <http://interscope2.doa.state.nc.us/Guidelines/MBE/MBGuidelines2002R.pdf>) for compliance with minority business utilization commitments. Submit this form with monthly pay applications to the Owner.

Prime Contractor(s), CM at Risk, and Its First-Tier Subcontractors

Under the single-prime bidding, the separate-prime bidding, construction manager at risk, and alternative contracting methods, contractor(s) will:

1. Attend the scheduled pre-bid conference.
2. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
3. During the bidding process, comply with the owner’s requirements listed in the proposal for minority participation.
4. Identify on the bid the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
5. Make documentation showing evidence of implementation of Prime Contractor, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by Granville County, upon request.
6. Upon being named the apparent low bidder, the bidder shall provide one of the following: (1) 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; or (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken 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. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
7. The contractor(s) shall identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values.
8. The contractor(s) shall submit with each monthly pay request(s) and final payment(s) documentation for contract payment to MBEs (e.g. state form “Appendix E: MBE Documentation for Contract Payment” <http://interscope2.doa.state.nc.us/Guidelines/MBE/MBGuidelines2002R.pdf>) for designer’s review.

9. During the construction of a project, at any time, if it becomes necessary to replace a minority business subcontractor, immediately advise the owner in writing, of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
10. If during the construction of a project additional subcontracting opportunities become available, the contractor shall make a good faith effort to solicit sub-bids from minority businesses.

Minority Business Responsibilities

Certification

While minority businesses are not required to become certified in order to participate in Granville County's building construction or repair projects, it is recommended that they become certified and take advantage of appropriate technical assistance that is made available. Certification can be obtained from the following agencies:

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

Other Responsibilities

Minority businesses that are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

SECTION D: MINIMUM COMPLIANCE REQUIREMENTS

All written statements or affidavits made by the bidder shall become a part of the agreement between the Contractor and Granville County for performance of the contract. Failure to comply with any of these statements, affidavits, or with the minority business guidelines shall constitute a breach of the contract. A finding by Granville County that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false, or incomplete shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of Granville County whether to terminate the contract for breach.

In determining whether a contractor has made good faith efforts, Granville County will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, diligence, and results of these efforts. Contractors are required to earn at least 50 points for good faith efforts. Failure to file a required affidavit or documentation demonstrating that the contractor made the required good faith effort is grounds for rejection of the bid. Good faith efforts include:

- (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. (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. (10 points)

(3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation. (15 points)

(4) Working 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. (10 points)

(5) Attending any prebid meetings scheduled by the public owner. (10 points)

(6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors. (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. (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. (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. (20 points)

(10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands. (20 points)

SECTION E: DISPUTE RESOLUTION POLICY AND PROCEDURES

Granville County establishes this dispute resolution system to facilitate the prompt and fair resolution of disputes with amounts in controversy in excess of \$15,000 arising between or among any parties involved in the Granville County's construction and repair projects (including Granville County, the architect, the engineer, the construction manager, the contractors, and the first-tier and lower-tier subcontractors) on claims arising out of the contract or construction process in accordance with N.C. Gen. Stat. § 143-128(f1). Granville County strives to resolve disputes without animosity between or among parties. To this end, the Board believes that an architect's or

engineer's review (as appropriate based upon the type of project) followed by mediation following the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions shall be preconditions to litigation or arbitration of any dispute covered by this policy. The costs of mediation shall be shared equally by the parties. In no event shall Granville County be subject to arbitration proceedings pursuant to this policy unless it agrees to the contrary in a specific contract.

SECTION F: In addition to these guidelines, there will be issued with each construction bid package provisions for providing minority business participation in Granville County projects.

Forms

- [Identification of Minority Business Participation](#)
- [Affidavit A- Listing of the Good Faith Efforts](#)
- [Affidavit B- Intent to Perform Contract with Own Workforce.](#)
- [Affidavit C- Portion of the Work to be Performed by Minority Firms](#)
- [Affidavit D-Good Faith Efforts](#)

Links

State of North Carolina Vendor Link - <http://www.ips.state.nc.us/ips/vendor/vndpubmain.asp>

Office for Historically Underutilized Businesses - <http://www.doa.state.nc.us/hub/>

State Construction Office - <http://www.nc-sco.com/>

State of North Carolina Interactive Purchasing System (all categories) - <http://www.ips.state.nc.us/ips/catbids.asp>

*Construction Services - <http://www.ips.state.nc.us/ips/bidlist.asp?category=99&name=Construction+Services&department=>

*Design Services- <http://www.ips.state.nc.us/ips/bidlist.asp?category=100&name=Design+Services&department=>

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 (\$) _____.

GRANVILLE COUNTY AFFIDAVIT A – Listing of Good Faith Efforts

County of GRANVILLE

(Name of Bidder)

Affidavit of _____

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

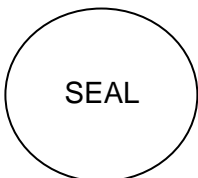
Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 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 _____

GRANVILLE COUNTY --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

County of GRANVILLE

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

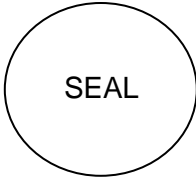
The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

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 _____

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

County of GRANVILLE

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

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.

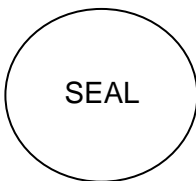
Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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 _____

GRANVILLE COUNTY AFFIDAVIT D – Good Faith Efforts

County of GRANVILLE

(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.**

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.

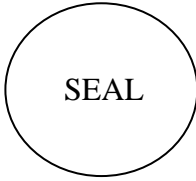
Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid

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 _____

FORM OF PROPOSAL

Building Addition & Alterations to the Granville County ABC Board, Oxford Building 111 New College Street, Oxford, NC 27565

Contract: _____

Bidder: _____

Date: _____

The undersigned, as bidder, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud. The bidder further declares that he has examined the site of the work and the contract documents relative thereto, 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 further declares that he and his subcontractors have fully complied with 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).

The Bidder proposes and agrees if this proposal is accepted to contract with the Granville County ABC Board

in the form of contract specified below, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary to complete interior alterations for the proposed Building Addition and Alterations to the Granville County ABC Store, Oxford Building, Oxford, NC in full in complete accordance with the plans, specifications and contract documents, to the full and entire satisfaction of Granville County. The Bidder submits this bid 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, for the sum of:

SINGLE PRIME CONTRACT:

Base Bid: _____ Dollars(\$)

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.

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.

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.

Respectfully submitted this day of _____

(Name of firm or corporation making bid)

WITNESS:

(Proprietorship or Partnership)

By: _____
Signature

Name: _____
Print or type

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

Address _____

ATTEST:

By: _____

Title: _____
(Corp. Sec. or Asst. Sec. only)

License No. _____

Federal I.D. No. _____

Email Address: _____

(CORPORATE SEAL)

Addendum received and used in computing bid:

Addendum No. 1 _____ Addendum No. 3 _____ Addendum No. 5 _____ Addendum No. 6 _____

Addendum No. 2 _____ Addendum No. 4 _____ Addendum No. 6 _____ Addendum No. 7 _____

PRINCIPAL: _____

SURETY: _____

OBLIGEE: **Granville County ABC Board**

PROJECT: Granville County ABC Store, Oxford Building

BOND AMOUNT: _____

PERFORMANCE BOND

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, numbered 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."

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

(Name of Principal)

[Execution by Principal when the Principal is a corporation]

By: _____

Title of officer: _____

(Affix Principal's corporate seal.)

[Execution by Principal when the Principal is a limited liability company]

By: _____
Manager of Principal

[Surety's execution]

(Name of Surety)

(signature of attorney in fact)
(Affix Surety's corporate seal.)

*(Instructions to Surety and Principal: **If you use a raised corporate seal, press hard enough to make it legible.**)*

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF PERFORMANCE BOND

[Acknowledgment when the Developer (the Principal) is a corporation]

State of _____
County of _____

I, a notary public in and for the aforesaid county and state, certify that _____
_____ personally appeared before me this day and stated that he
or she is

~~(strike through the inapplicable)~~: chairperson/ president/ chief executive officer/ vice-president/
assistant vice-president/ treasurer/ chief financial officer of

_____, a
corporation, and that by authority duly given and as the act of the corporation, he or she signed
the foregoing Performance Bond and the corporate seal was affixed to said instrument(s). This
the ____ day of _____, 20__.

My commission expires: _____
Notary Public

[Acknowledgment when the Developer (the Principal) is a limited liability company]

State of _____
County of _____

I, _____, a notary public for said county and state, certify
that _____ (1) appeared before
me this day, (2) stated that he or she is a manager of

_____, a limited
liability company, (3) acknowledged that the foregoing Performance Bond carry on the
company's business in the usual way, and (4) acknowledged the due execution of the
Performance Bond on behalf of the company.

This the _____ day of _____, 20_____.

My commission expires: _____
Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF PERFORMANCE BOND

State of _____
County of _____

I, _____, a notary public in and for said county and state,
certify that _____ personally appeared before me this
day and acknowledged that he or she is Attorney in Fact for

_____, the Surety
named in the foregoing Performance Bond, in which bond the Obligee is the **Granville County
ABC Board**.

This the _____ day of _____, 20_____.

My commission expires: _____

Notary Public

PRINCIPAL: _____

SURETY: _____

OBLIGEE: **Granville County ABC Board**

PROJECT: Granville County ABC Store, Oxford Building

BOND AMOUNT: _____

PAYMENT BOND

"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, numbered as shown above and hereto attached;

"NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and 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."

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

(Name of Principal)

[Execution by Principal when the Principal is a corporation]

By: _____

Title of officer: _____

(Affix Principal's corporate seal.)

[Execution by Principal when the Principal is a limited liability company]

By: _____
Manager of Principal

[Surety's execution]

(Name of Surety)

(signature of attorney in fact)
(Affix Surety's corporate seal.)

*(Instructions to Surety and Principal: **If you use a raised corporate seal, press hard enough to make it legible.**)*

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF PAYMENT BOND

[Acknowledgment when the Developer (the Principal) is a corporation]

State of _____
County of _____

I, a notary public in and for the aforesaid county and state, certify that _____
_____ personally appeared before me this day and stated that he
or she is

~~(strike through the inapplicable)~~: chairperson/ president/ chief executive officer/ vice-president/
assistant vice-president/ treasurer/ chief financial officer of

_____, a
corporation, and that by authority duly given and as the act of the corporation, he or she signed
the foregoing Payment Bond and the corporate seal was affixed to said instrument(s). This the
____ day of _____, 20____.

My commission expires: _____
Notary Public

[Acknowledgment when the Developer (the Principal) is a limited liability company]

State of _____
County of _____

I, _____, a notary public for said county and state, certify
that _____ (1) appeared before
me this day, (2) stated that he or she is a manager of

_____, a limited
liability company, (3) acknowledged that the foregoing Payment Bond carry on the company's
business in the usual way, and (4) acknowledged the due execution of the Payment Bond on
behalf of the company.

This the _____ day of _____, 20_____.

My commission expires: _____
Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF PAYMENT BOND

State of _____
County of _____

I, _____, a notary public in and for said county and state, certify that _____ personally appeared before me this day and acknowledged that he or she is Attorney in Fact for

_____, the Surety named in the foregoing Payment Bond, in which bond the Obligee is **Granville County ABC Board**, and that he or she executed said bond, under the seal of the Surety, on behalf of the Surety.

This the _____ day of _____, 20_____.

My commission expires: _____

Notary Public

CONSTRUCTION CONTRACT

GRANVILLE COUNTY ABC BOARD ADDITION & ALTERATION TO THE GRANVILLE COUNTY ABC STORE OXFORD BUILDING

THIS AGREEMENT, made the ___ day of _____ in the year of 2022 by and between _____, a _____, hereinafter called the “Contractor” and **GRANVILLE COUNTY ABC BOARD**, hereinafter called the “Owner”.

WITNESSETH:

That the Contractor and the Owner 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:

- a. This Agreement
- b. Advertisement
- c. Project and Specifications Manual, _____
- d. Granville County ABC Store Addition & Alteration, Oxford Building construction drawings by Stephen T. Baxter, Architect, PLLC; consisting of ___ pages as follows:
 - i.
 - ii.
- e. Proposal by Contractor consisting of the following:
 - i. Form of Proposal
 - ii. Identification of HUB Certified/ Minority Business Participation
 - iii. Granville County Affidavit A—Listing Good Faith Efforts
 - iv. Bid Bond and Power of Attorney
- f. Contractor’s Schedule of Work with a time for completion of 180 days from the date a notice to proceed is issued.
- g. Certificate of Insurance (workers' compensation, public liability, property damage, and builder's risk insurance certificate)
- h. Payment Bond
- i. Performance Bond
- j. Power of Attorney
- k. Granville County—Affidavit C—Portion of the Work to be Performed by HUB Certified/ Minority Businesses
- l. Any other documents listed in this Agreement
- m. Modifications issued after the execution of this Agreement

The foregoing documents are collectively referred to as the “Contract Documents”. Defined terms in the Contract Documents shall have the same meaning herein to the extent not in conflict with any term or provision of this agreement. Additional Contract Documents may be incorporated into this Agreement by written acknowledgement of both parties indicating that the parties intend that said documents be incorporated into this Agreement.

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 Owner and shall fully complete all work hereunder 120 consecutive calendar days from said date. For each day in excess thereof, liquidated damages shall be assessed at the rate of \$500.00 per day if the work is not completed by the date specified. The Contractor, as one of the considerations for the awarding of this contract, shall furnish to the Owner 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 14 of the General Conditions of the Contract.

3. The Owner 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 including adjustments based on unit prices, in lawful money of the United States as follows: _____ and ___/100 Dollars (\$_____.00) (the "Contract Sum").

4. In accordance with Article 31 and Article 32 of the General Conditions of the Contract, the Owner shall review, and if approved, process the Contractor's pay request within 30 days upon receipt from the Designer. The Owner, 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 Owner until all work has been performed strictly in accordance with this Agreement and until such work has been accepted by the Owner. The Owner may elect to waive retainage requirements after 50 percent of the work has been satisfactorily completed on schedule as referred to in Article 31 of the General Conditions.

5. Upon submission by the Contractor of evidence satisfactory to the Owner 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 Owner.

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 for its faithful performance, the Owner 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 Owner 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 Owner. 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 Owner.

7. Contractor warrants that it is and shall at all times remain in compliance with the "E-Verify" provisions of Article 2, Chapter 64 of the North Carolina General Statutes. Further, Contractor shall require that all subcontractors providing services related to this Contract be and remain in compliance with Article 2, Chapter 64 of the North Carolina General Statutes. Failure to meet the requirements of this paragraph shall be an event of default hereunder.

8. Contractor represents that as of the date of this Agreement, Contractor is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Contractor also represents that as of the date of this Agreement, Contractor is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise one and the same instrument. This

Agreement may be executed and delivered by facsimile or email/pdf. The parties agree to accept a digital/electronic image of this Agreement as executed, as a true and correct original and admissible as best evidence for the purposes of State law, Federal Rule of Evidence 1002, and the like statutes and regulations.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

DRAFT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and date first above written.

By: _____
Title: _____

Attest: (Corporation)

By: _____

Title: _____
(Corp. Sec. or Asst. Sec. only)

GRANVILLE COUNTY ABC BOARD

Witness:

By: _____
Rob Williford
Chairman

PRE-AUDIT CERTIFICATION

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

Stephen M. McNally
Finance Director, County of Granville