GENERAL CONDITIONS OF THE CONTRACT

STANDARD FORM FOR CONSTRUCTION MANAGER-AT-RISK PROJECTS

NORTH CAROLINA
COUNTY OF BUNCOMBE
COURTHOUSE PLUMBING RENOVATION

GENERAL CONDITIONS OF THE CONTRACT

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ARTICLE 1 - DEFINITIONS

a. The **contract documents** consist of the Request for Proposal (RFP); Construction Manager's formal response to the RFP; General Conditions of the Contract; special conditions if applicable; 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 contract; the performance bond; the payment bond; insurance certificates. All of these items together form the contract.

b. The **Owner** is Buncombe County Government.

c. The **designer** or **project designer** means the firm or firms of architects or engineers or both (and their consultants) which have undertaken to design the project pursuant to a contract with the Owner, (hereinafter, the "design contract").

d. The **Construction Manager-at-Risk (CM) accepts a relationship of trust and confidence between himself and the Owner and undertakes to act as the Owner's fiduciary in the handling and opening of bids in accordance with the provisions of North Carolina General Statute (N.C.G.S.) 143-128.1.** The CM agrees to furnish his best skills and his best judgment to cooperate with the Owner and Designer for undertaking all necessary action contemplated under the contract documents to (a) establish during the design phase a Guaranteed Maximum Price (GMP) to construct the project and (b) ensure timely and quality completion of the project at a cost within the GMP. Construction Manager or CM as used in the contract documents means Construction Manager-at-Risk (CM at Risk).

e. A **subcontractor**, as the term is used herein, shall be in the case of a principal trade contractor, a general, mechanical, electrical or plumbing contractor or in the case of a specialty contractor, a trade contractor who is not a principal trade contractor, who has entered into a direct contract with a CM, 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 as supervised by the CM.

h. The **project** is the total construction work to be performed under the contract documents.

i. **Construction Management Fee** shall be an all-inclusive lump sum management fee which will include all Construction Manager-at-Risk home office, project site and project related costs including all Construction Manager-at-Risk overhead costs and profit.

j. **Change order**, as used herein, shall mean a written order to the CM subsequent to the signing of the contract authorizing a change in the GMP contract. The change order shall be signed by the CM, designer and the Owner, in that order (Article 19).

k. **Field Order,** as used herein, shall mean a written approval for the CM to proceed with the work requested by Owner prior to issuance of a formal Change Order. The field order shall be signed by the CM, designer, and Owner.

l. **Field Change,** as used herein shall mean a written approval from the Owner for the CM to proceed with work requested by the Owner to be paid for from the CM Contingency or Owner's Project Reserve within the GMP.

m. **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).

n. **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 CM 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 CM, or consequential damages that the Owner identified in the bid documents that may be impacted by any delay caused solely by the CM (e.g., if a multi-phased project-subsequent phases, delays in start of other projects that are dependent on the completion of this Project, extension of leases and/or maintenance agreements for other facilities).

o. **Surety**, as used herein, shall mean the bonding company or corporate body which is bound with and for the CM, and which engages to be responsible for the CM and his acceptable performance of the work.

p. **Routine written communications between the Designer and the Construction Manager** 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".

q. **Clarification or Request for information (RFI)** is a request from the CM 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 CM's interpretation or understanding of the contract documents requirements in question, along with reasons for such an understanding.

r. **Approval** means written or imprinted acknowledgement that materials, equipment or methods of construction are acceptable for use in the work.

s. **Inspection** shall mean examination or observation of work completed or in progress to determine its compliance with contract documents.

t. **"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 the designer and owner.

u. **"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.

v. **Provide** shall mean furnish and install complete in place, new, clean, operational, and ready for use.

w. **Indicated and shown** shall mean provide as detailed, or called for, and reasonably implied in the contract documents.

x. **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.

y. **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.

z. **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.

aa. left blank for numbering purposes

bb. 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 local Authority Having Jurisdiction (AHJ). Life safety items include but not limited to fire alarm, sprinkler, egress and exit lighting, fire rated walls, egress paths and security.

cc. **Final Acceptance** is the date in which the Owner accepts the construction as totally complete. This includes the local AHJ 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. 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 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 CM shall execute each copy of the response to RFP, 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 construction manager’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 CM’s signature on the performance bond and the payment bond shall correspond with that on 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 CM 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 CM 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 CM electronic copies of plans and specifications. If requested by the CM, up to 30 paper copies of plans and specifications will be provided free of charge, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the CM shall clearly and legibly record all work-in-place that is at variance with the contract documents. Additional sets shall be furnished at cost, including mailing, to the CM at the request of the CM.

ARTICLE 5 - SHOP DRAWINGS, SUBMITTALS, SAMPLES, DATA

a. Within fifteen (15) consecutive calendar days of the notice to proceed, a schedule for anticipated submission of all shop drawings, product data, samples, and similar submittals shall be prepared by the CM and provided 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 CM 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 CM'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 CM. 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.

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) for his use. The remaining copies of each submittal shall be returned to the CM not later than twenty (20) days from the date of receipt by the Designer, for the CM'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 by the designer shall not be construed as relieving the CM 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 error has been called to the attention of the designer in writing by the CM.

ARTICLE 6 - WORKING DRAWINGS AND SPECIFICATIONS AT THE JOB SITE

a. The CM 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 or his authorized representative, and the owner.

b. The CM 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 CM and submitted to the designer upon project completion and no later than thirty (30) days after 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 CM shall, unless otherwise specified, supply & pay for all lighting, power, heat, sanitary facilities & water and shall require the Principal Trade and Specialty Contractors to, supply and pay for all labor, transportation, materials, tools, apparatus, scaffolding and incidentals necessary for the completion of his work, and to 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. The CM 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 there from, 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 CM shall furnish evidence from the Principal Trade and Specialty Contractors 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 CM through the Principal Trade or Specialty Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the CM through the Principal Trade or Specialty Contractor has the option of using any product and manufacturer combination listed. However, the CM through the Principal Trade or Specialty 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. The CM shall be responsible for reviewing all substitution requests from Principal Trade or Specialty Contractors prior to submission to the Project Designer and Owner and shall track & monitor all such requests. Requests for substitution of materials, items, or equipment shall be submitted to the Project 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 award if it can clearly be demonstrated that it is an added benefit to the owner and the designer and the owner approves.

e. The CM shall obtain written approval from the designer for the use of products, materials**,** equipment**,** assemblies or installation methods claimed as equal to those specified. Such approvals must be obtained as soon after contract awards as possible and before any materials are ordered.

f. 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 conduct 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 CM 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 CM shall protect and save harmless the Owner against suit on account of alleged or actual infringement. The CM 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 CM 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 CM observes that the drawings and specifications are at variance therewith, he shall promptly notify the Designer in writing. Any necessary changes required after contract award shall be made by change order in accordance with Article 19. If the CM performs any work or authorizes

any work to be performed 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 there from. 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 CM unless otherwise specified.

c. Projects constructed by Buncombe County or a subdivision thereof are subject to inspection by appropriate county or municipal authorities and building codes. The CM shall cooperate with the county and/or municipal authorities by obtaining building permits. Permits shall be obtained at CM's cost.

d. Projects involving local funding (Community Colleges) are also subject to county and municipal building codes and inspection by local authorities. The CM shall pay the cost of these permits and inspections unless otherwise specified.

ARTICLE 11 - PROTECTION OF WORK, PROPERTY AND THE PUBLIC

a. The CM shall be 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. The CM 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. The CM shall be responsible for and pay for any damages caused to the Owner. The CM shall have access to the project at all times.

b. The CM shall be responsible to 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. 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.

d. The CM shall ensure that all trees and shrubs designated to remain in the vicinity of the construction operations are protected in accordance with the requirements of the plans and specifications. All walks, roads, etc., shall be barricaded 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 CM shall develop and implement a project safety plan that provides 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.

The CM shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, elevator shafts, stairwells and similar hazards. The CM shall insure that protection is provided against damage or injury resulting from falling materials and that all protective devices and signs be maintained throughout the progress of the work.

f. The CM 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 N.C.G.S. 95-126 through 155.

g. The CM 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 an emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the CM 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 CM 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 CM or any Principal Trade or Specialty Contractor in connection with the project shall comply with all erosion control measures set forth in the contract documents and any additional measures which may be required in order to ensure that the project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15, North Carolina Administrative Code, Chapter 4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 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 CM 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 CM 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 CM 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 by the designer, designated official representatives of the Owner and those persons required by state law to test special work for official approval. The CM shall therefore provide safe access to the work at all times for such inspections.

b. All instructions to the CM 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 CM.

c. The CM shall perform quality control inspections on the work of Principal Trade and Specialty Contractors to guard the Owner against defects and deficiencies in the work and shall coordinate this activity with the on-site duties of the Project Designer. The CM shall advise the Project Designer of any apparent variation and/or deviation from the intent of the Contract Documents and shall take the necessary action to correct such variations and deviations.

d. All work shall be inspected by designer, special inspector prior to being covered by the contractor. The CM shall give a minimum of two week notice unless otherwise agreed to by all parties. If inspection fails, after the first re-inspection all costs associated with additional re-inspections shall be borne by the CM.

e. Where special inspection or testing is required by virtue of any state laws, instructions of the designer, specifications or codes, the CM shall give adequate notice to the Project Designer of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the Project Designer. Such special tests or inspections will be made in the presence of the Project Designer, or his authorized representative, and it shall be the CM’s responsibility to serve ample notice of such tests.

f. All laboratory tests shall be paid by the Owner unless provided otherwise in the contract documents except the CM 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.

g. Should any work be covered up or concealed prior to inspection and approval by the Project Designer such work shall be uncovered or exposed for inspection, if so requested by the Project Designer in writing. Inspection of the work will be made promptly upon notice from the CM. 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 CM.

ARTICLE 14 - CONSTRUCTION SUPERVISION AND SCHEDULE

a. On-site representatives of the CM shall manage the work of the Principal Trade and Specialty Contractors and coordinate the work with the activities of the Owner and Project Designer to complete the project with the Owner's objectives of cost, time and quality. Throughout the progress of the work, the CM shall maintain a competent and adequate full-time staff approved by the Owner and Project Designer. It is understood that the designated and approved on-site representative of the CM will remain on the job and in responsible charge as long as those persons remain employed by the CM unless otherwise requested or agreed to by the Owner. The CM shall establish an on-site organization with appropriate lines of authority to act on behalf of the CM. Instructions, directions or notices given to the designated on-site authority shall be as binding as if given to the CM. However, directions, instructions, and notices shall be confirmed in writing.

b. The CM 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. The CM shall call and preside over monthly job site progress conferences. All Principal Trade and Specialty Contractors shall be represented at these job progress conferences by both home office and project personnel. The CM shall require attendance from other subcontractors and material suppliers 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. The CM shall be prepared to assess progress of the work and to recommend remedial measures for correction of progress as may be appropriate. The CM with assistance from the Designer shall be the coordinator of the conferences and shall preside as chairman. The CM 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.

d. The CM 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 nearby in a location where same will not be disturbed and where direct instruments sights may be taken.

e. Prior to bidding, it shall be the responsibility of the CM to prepare an electronic and paper copy of a preliminary critical path method (CPM) schedule and submit such schedule to the Project Designer for his review and comment in sufficient time to allow revisions prior to inserting said schedule into the Principal Trade and Specialty Contractors' bid packages. After contract award but prior to thirty (30) days from the date of the notice to proceed, the CM shall obtain from the Principal Trade and Specialty Contractors their respective work activities and integrate them into a project construction schedule in CPM form. The

resulting CPM schedule shall show all salient features of the work required for construction of the project from start to finish within the time allotted by the contract. The time in days between the CM's early completion date and the contractual completion date is project float time and shall be used as such by the CM unless amended by change order. The CM shall submit to the Project Designer an electronic and paper copy of the final CPM schedule after contracts are executed but within fifteen (15) days prior to the written notice to proceed. The Project Designer after reviewing and commenting on the project CPM schedule shall submit it to the Owner for approval. No application for payment will be processed until the project CPM schedule is approved by the Owner. No monthly application for payment will be processed without the submission of an electronic and paper copy of the CPM schedule attached.

f. The CPM schedule shall be a complete computer generated network analysis showing the complete sequence of construction activities, identifying the work of separate stages and other logically grouped activities, indicating early and late start and early and late finish dates, float duration and a complete logic. Monthly updates will show the estimated completion of each activity.

g. The CM shall distribute to the principal trade and specialty contractors the approved project CPM schedule and shall display same at the job site.

h. The CM shall maintain the project CPM schedule, making monthly adjustments, updates, corrections, etc., which are necessary to finish the project within the time allotted by the contract. In doing so, the CM shall keep the designer as well as all Principal Trade and Specialty Contractors fully informed as to all changes and updates to the schedule. The CM shall submit to the Project Designer a monthly report of the status of all work activities. The monthly status report shall show the actual work completed to date in comparison with the original amount of work scheduled. If the work is behind schedule, the CM must indicate in writing what measures are being taken to bring the work back on schedule and ensure that the contract completion date is not exceeded. If the work is greater than thirty (30) days behind schedule and no legitimate requests for time extensions are in process, then the CM shall prepare and submit to the Project Designer a recovery schedule for review and approval. Failure of the CM to abide by the directives in this paragraph will give the Owner cause to exercise the remedies set forth in Article 29 of the General Conditions and pursue any other legal remedies allowed it by law.

ARTICLE 15 – {NOT USED}

ARTICLE 16 - PRINCIPAL TRADE AND SPECIALTY CONTRACTS AND CONTRACTORS

a. Principal Trade and Specialty Contractors shall be pre-qualified by the CM. The prequalification criteria shall be determined by the Owner and CM to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and any other factors deemed appropriate by the Owner and/or CM. Basic qualification information from Principal Trade and Specialty Contractors shall be requested on forms agreed upon by CM

and Owner. Only pre-qualified contractors are allowed to bid to and contract with the CM on a project.

b. All bids for Principal Trade and Specialty Contracts shall be publically advertised and shall be opened publically in a public venue, and once opened, shall be public records under N.C.G.S. 132. The CM shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the time for completion, compliance with N.C.G.S. 143-128.2, and other factors deemed appropriate by the Owner and advertised as part of the bid solicitation. When contracts are awarded pursuant to this section, the Owner shall provide for a dispute resolution procedure as provided by N.C.G.S. 143-128(f1). Once Principal Trade and Specialty Contractors are in place, the CM shall provide copies of the contracts to the Project Designer and also provide a list of equipment and material suppliers.

c. A CM may perform a portion of the work only if (a) bidding produces no responsible, responsive bidder for that portion of the work, or (b) the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the Principal Trade or Specialty Contractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (c) the Owner approves performance of the work by the CM.

d. The Designer will furnish to any Principal Trade or Specialty Contractor, upon request, evidence regarding amounts of money paid to the CM on account of the work of the Principal Trade or Specialty Contractor.

e. The CM is and remains fully responsible for his own acts or omissions as well as those of any Principal Trade or Specialty Contractor or of any employee of either. The CM agrees that no contractual relationship exists between the Principal Trade and Specialty Contractors and the Owner in regard to the contract, and that the Principal Trade and Specialty Contractors act on this work as an agent or employee of the CM.

ARTICLE 17 - CONSTRUCTION MANAGER AND SUBCONTRACTOR RELATIONSHIPS

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

b. On all public construction contracts which are let by a board or governing body of the state government or any political subdivision thereof, the balance due the CM 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 CM, 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 45 day limit. Should final payment to the CM beyond the date such contracts have been certified to be completed by the Project Designer, 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 CM 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 the CM during construction shall be paid in accordance with the payment provisions of the contract documents or said CM 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.

c. Within seven days of receipt by the CM of each periodic or final payment, the CM shall pay the Principal Trade and Specialty Contractors based on work completed or service provided under their contract with the CM. Should any periodic or final payment to a Principal Trade or Specialty Contractor be delayed by more than seven days after receipt of periodic or final payment by the CM, the CM shall pay the Principal Trade or Specialty Contractor 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.

d. The percentage of retainage on payments made by the CM to the Principal Trade and Specialty Contractors shall not exceed the percentage of retainage on payments made by the Owner to the CM. Any percentage of retainage on payments made by the CM to the Principal Trade or Specialty Contractors that exceeds the percentage of retainage on payments made by the Owner to the CM shall be subject to interest to be paid by the CM to the Principal Trade or Specialty Contractor at the rate of one percent (1%) per month or fraction thereof.

e. Nothing in this section shall prevent the CM at the time of application and certification to the Owner from withholding application and certification to the Owner for payment to a Principal Trade or Specialty Contractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of the Principal Trade or Specialty Contractor to make timely payments for labor, equipment and materials; damage to CM or another subcontractor; reasonable evidence that a Principal Trade or Specialty Contract 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 Project Designer shall provide 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 stop work or to order work removed, or to order corrections of faulty work where such action may be necessary to assure successful completion of the work.

b. The Project 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 CM, taking sides with neither.

c. Should the Project 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 Project Designer.

d. The Project Designer will make periodic inspections of the project at intervals appropriate to the stage of construction. He will inspect the progress, the quality and the quantity of the work.

e. The Project Designer and the Owner shall have access to the work whenever it is in preparation and progress during normal working hours. The CM shall provide facilities for such access so the Designer may perform his functions under the contract documents.

f. Based on the Project Designer's inspections and evaluations of the project, the Project Designer shall issue interpretations, directives and decisions as may be necessary to assist the CM in the administration of the project. His decisions relating to artistic effect and technical matters shall be final, provided such decisions are within the limitations of the contract. The CM's decisions, however, relating to means and methods, and administration of the contracts the CM holds are final.

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 CM 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 email, fax, 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. The CM may be requested to make a change to the work by the Project Designer and Owner where such work is to be funded by the CM Contingency or Project Reserve that is part of the GMP contract. Such a change must be documented in

the same manner as a Change Order and must be authorized in writing by the Project Designer and Owner by a Field Change document.

In the event of emergency endangering life or property, the County may direct the CM to proceed on a time and material basis whereupon the CM shall proceed and keep accurately on such form as may be required, 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, the CM and Principal Trade and Specialty 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, 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 is 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 for a Principal Trade or Specialty Contractor and all multi-tier subcontractors shall not exceed fifteen percent (15%) of **net cost** of the work. No allowance for overhead and profit will be allowed for the CM until the change orders aggregate to a sum in excess of five percent (5%) of the Cost of the Work portion of the GMP. Once this threshold is met the CM may add an overhead & profit allowance not to exceed four percent (4%) of the net cost of the change order. Change orders to the GMP which authorize additional phases of a project without a change in scope of the originally intended project will not be considered in establishing the threshold for additional CM overhead & profit. 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 project;

    2 The actual costs of labor expended 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 project;

5 The actual costs of premiums for bonds, insurance, permit fees and sales or use taxes related to the project. Overtime and extra pay for holidays and weekends shall not be incurred by the Owner as a cost item or otherwise.

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 breakdown showing method of arriving at net cost as defined above.

g. In all change orders, the procedure will be for the Project Designer to request proposals for the change order work in writing. The CM will require the Principal Trade and Specialty Contractors to provide such proposals and supporting data in suitable format and will review and approve such change orders prior to submission to the designer. The Project Designer shall verify correctness. Within fourteen (14) days after receipt of the CM's proposal**,** the Project Designer shall prepare the change order and forward to the CM for his signature or otherwise respond, in writing, to the CM's proposal. Within seven (7) days after receipt of the change order executed by the CM, the Project 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 for final approval**,** within seven (7) days of receipt. Copies will be sent to the Project Designer for distribution to the CM and the surety. 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 CM 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 CM's terms are unacceptable, the Owner**,** may require the CM to perform such work on a time and

material basis in accordance with paragraph "b" 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 AND DISPUTE RESOLUTION

a. Should the CM consider that as a result of any instructions given in any form 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 CM 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 will 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 CM shall not act on instructions received by him from persons other than the Project Designer, and any claims for extra compensation or extension of time on account of such instruction will not be honored. The Project Designer will not be responsible for misunderstandings claimed by the CM 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. To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between the Owner and the Design Consultant, that any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the President of the Buncombe County Bar Association shall name a mediator to hear the matter. During the pendency of any dispute and after a determination thereof, the parties to the dispute shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. The costs of the process shall be divided equally between the parties to the dispute.

d. The mediation session shall be private and shall be held in Buncombe County, North Carolina or in another North Carolina County agreed upon by both parties. Mediation under this Article 11 shall not be the cause for a delay of the Project which is the focus of the dispute.

e. If, as a result of mediation, a voluntary settlement is reached and the parties to the dispute agree that such settlement shall be reduced to writing, the Mediator shall be deemed appointed and constituted an arbitrator for the sole purpose of signing the mediated settlement agreement. Such agreement shall be, and shall have the same force and effect as an arbitration award, and judgment may be entered upon it in accordance with applicable law in any court of competent jurisdiction.

f. If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the County of Buncombe and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this Article, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

ARTICLE 21 - MINOR CHANGES IN THE WORK

The Project 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 CM.

ARTICLE 22 - UNCORRECTED FAULTY WORK

Should the correction of faulty or damaged work be considered inadvisable or inexpedient by the Owner and the Project Designer, the Owner shall be reimbursed by the CM. 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 final completion date will be as determined by the Owner, Designer and CM during the pre-construction phase of the project and will be incorporated into the contract for construction services between the Owner and the CM.

b. The CM shall commence work to be performed under this agreement on a date to be specified in a written Notice to Proceed from the Project Designer and shall fully complete all work hereunder within the time of completion specified. For each day in excess of the above number of days, the CM shall pay the Owner the sum stated as liquidated damages reasonably estimated in advance to cover the loses to be incurred by the Owner by reason of failure of the CM to complete the work within the time specified, such time being in the essence of this contract and a material consideration thereof.

c. If the CM is delayed at any time in the progress of his work by any act or negligence of the Owner or the Project Designer, or by any employee of either; 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 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 CM 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.

d. 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 CM shall notify the designer copies to the owner, of the delay within twenty (20) days of the beginning of the delay and only one claim is necessary.

e. The CM shall notify his surety in writing of extension of time granted.

f. No claim shall be allowed on account of failure of the Project 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 when the work is substantially complete.

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). If beneficial occupancy is granted, 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 responsibilities for utility costs for entire building.

    3. Contractor will obtain consent of surety.

    4. Contractor will obtain endorsement from insurance company permitting beneficial occupancy.

    5. The Owner shall have the right to exclude the CM from any part of the project which the Project Designer has so certified to be substantially complete, but the

Owner will allow the CM reasonable access to complete or correct work to bring it into compliance with the contract.

6. Occupancy by the Owner under this article will in no way relieve the CM 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 CM that the project is complete and ready for inspection, the Project Designer shall make a designer final inspection to verify that the project is complete and ready for final inspection. Prior to final inspection, the CM shall ensure that all items requiring corrective measures noted at the designer final inspection are complete. The Project Designer shall schedule a final inspection at a time and date acceptable to the Owner and the CM.

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 Owners' representative shall make the following determinations:

    1. That the project is completed and accepted.

    2. That the project is 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.

    3. That the project is not complete and another date for a final inspection will be established.

c. Within fourteen (14) days of acceptance per Paragraph b1 or within fourteen (14) days after completion of punch list per Paragraph b2 above, the Project 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.

e. The date of acceptance will establish the following:

    1. The beginning of guarantees and warranties period.

    2. The date on which the CM'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 CM (if applicable).

f. **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 CM, and shall be immediately replaced by new work in accordance with the contract at no additional cost to the Owner. Work or property of the Owner, damaged or destroyed by virtue of such faulty work, shall be made good at the expense of the CM.

b. Correction of condemned work described above shall commence within twenty-four (24) hours after receipt of notice from the Project Designer, and shall make satisfactory progress until completed.

c. Should the CM 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 Project Designer, shall relieve the CM from responsibility for negligence, or faulty material or workmanship, or failure to comply with the drawings and specifications. The CM shall correct or make good any defects due thereto and repair any damage resulting therefrom, 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 CM and establish a time limit for completion of corrections by the CM. 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 CM 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 CM 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 CM, such action and cost of same having been first approved by the Project Designer. Should the cost of such action of the Owner exceed the amount due or to

become due the CM, then the CM 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 CM fails to begin the work under the contract within the time specified or fails to establish a GMP or obtain bids from or enter into contracts with qualified Principal Trade or Specialty Contractors within the GMP, 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 CM 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 CM and his surety of such delay, neglect or default, specifying the same, and if the CM 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 CM, 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 CM 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 CM, then the said CM 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 CM and the surety shall be liable and shall pay to the Owner the amount of said excess.

ARTICLE 30 – CONSTRUCTION MANAGER'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 CM, 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 CM, 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 CM for the cost of all materials delivered and work performed on this contract plus ten (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 CM 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 CM 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 CM'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. Prior to submitting the first payment request, the CM shall prepare a schedule showing a breakdown of the contract price into values of the various parts of the GMP contract. The Cost of the Work breakdown will be arranged so as to facilitate payments to the Principal Trade and Specialty Contractors in accordance with Article 17. The combined CM Construction Management Fee, Bonds & Insurance, CM Contingency, and Project Reserve (if any) will be shown on the Schedule of values as separate lines. The values for the CM Contingency and Project Reserve (if any) will move to appropriate lines within the Cost of the Work as those funds are committed and expended. This schedule of values will be submitted to & approved by the designer and Owner within 30 days of the Notice to Proceed. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the designer and Owner may require.

c. Applications for payment shall be in a form agreed upon by the CM, designer and Owner and shall be prepared and supported by such data to substantiate the accuracy of the request as the designer may require.

d. Subject to other provisions of the contract documents, the amount of each progress payment shall be computed as follows:

    1. Take that portion of the GMP properly allocable to completed work as determined by multiplying the percentage completion of each portion Cost of the Work by the share of the GMP allocated to that portion of the work in the schedule of values.

2. Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the work or if approved in advance by the Owner, suitably stored off site at a location agreed upon in writing.

3. Subtract the aggregate of previous payments made by the Owner.

4. Subtract the amount, in any, by which the CM has been previously overpaid, as evidenced by the Owner's review of the CM's documentation.

5. Subtract amounts, if any, for which the Project Designer has withheld or nullified a certificate of payment.

6. Subtract retainage as per paragraph (h) below. Add the amount due for the CM Construction Management Fee calculated on the basis the percentage completion of the project or on a schedule of payment negotiated with the Owner less fifteen percent (15%) and less previous payments for CM Construction Management Fee.

7. Final payment will be adjusted accordingly with the Final / Adjusted GMP. Any remaining contingency will be returned to the County via change order deduct prior to final payment request.

e. Payment allocated to Principal Trade and Specialty Contractors shall be subject to five percent (5%) retainage, provided, however that after fifty percent (50%) of the Cost of the Work has been satisfactorily completed on schedule, with the approval of the Owner and with 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. The balance of the CM Construction Management Fee shall be held by the Owner until satisfactory completion and close out of the project. Satisfactory completion and close out of the project means that the Owner and Project Designer are satisfied that the project has been completed in accordance with the plans and specifications and within the GMP, all general conditions of the contract pertaining to close out have been satisfied, and all Principal Trade and Specialty Contractors have satisfactorily completed their respective contracts. No retainage will be held for the cost of Bonds and Insurance

f. 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 CM 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 CM, at his option, shall be permitted to store such materials and/or equipment in a suitable space off-site. Should the CM 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 CM'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 CM. 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 the County absolute right to possession of the materials at any time. Bond, security and insurance protection shall continue to be the responsibility of the CM.

g. In the event of beneficial occupancy, retainage of funds due the CM may be reduced with the approval of the Owner 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 CM's bonding company.

ARTICLE 32 - CERTIFICATES OF PAYMENT AND FINAL PAYMENT

a. Within five (5) days from receipt of request for payment from the CM, 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 CM 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 CM.

    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 CM 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 CM 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 CM 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 contracts amounts and total actual payments to subcontractors and material suppliers.

2. Affidavit of Release of Liens.

3. Affidavit from CM 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 Project Designer, certificates of compliance issued, and the CM has complied with the closeout requirements. The designer shall forward the CM'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 against the CM.

b. The Owner may authorize the withholding of payment for the following reasons:

1. Claims filed against the CM or evidence that a claim will be filed.

2. Evidence that Principal Trade or Specialty Contractors have not been paid.

c. The Owner may withhold all or a portion of CM's Project Management Fee costs set forth in the approved schedule of values, if CM 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 CM without cause will make owner liable for payment of interest to the CM 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 CM has verified to the Owner that all required insurance and verifying certificates of insurance have been obtained and approved in writing by the Owner. These certificates shall contain a provision that coverage's afforded under the policies will not be cancelled, reduced in amount or coverage's 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.

a. Worker's Compensation and Employer's Liability

The CM shall ensure that it and all Principal Trade and Specialty Contractors shall provide and maintain, during the life of the contract, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of $100,000.

b. Public Liability and Property Damage

The CM shall ensure that it and all Principal Trade and Specialty Contractors shall provide and maintain, during the life of the contract, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual 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

Property Damage: $1,000,000 per occurrence / $3,000,000 aggregate

In lieu of limits listed above, a $500,000 combined single limit shall satisfy both conditions.

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 CM shall ensure that it and all Principal Trade and Specialty Contractors shall purchase and maintain property insurance during the life of this contract, upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the CM, and subcontractors in the work and shall insure against the perils of fire, extended coverage, and vandalism and malicious mischief. If the Owner is damaged by failure of the CM to purchase or maintain such insurance, then the CM shall bear all reasonable costs properly attributable thereto; the CM 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 CM and/or the Principal Trade or Specialty Contractor as applicable.

e. Other Insurance

The CM shall ensure that it and all Principal Trade and Specialty Contractors 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 CM shall ensure that it and all Principal Trade and Specialty Contractors 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. The CM 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, which shall be in the amount of the GMP for the entire project. Bonds shall be executed in the form bound with the 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 CM on account of the contract shall not become due until the CM 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 to Principal Trade and Specialty Contractors in connection with his contract have been satisfied, and that no claims or liens exist against the CM in connection with this contract. In the event that the CM cannot obtain similar affidavits from the Principal Trade and Specialty Contractors to protect the CM and the Owner from possible liens or claims against the subcontractor, the CM shall state in his affidavit that no claims or liens exist against any subcontractor to the best of his (the CM's) knowledge, and if any appear afterward, the CM shall save the Owner harmless.

ARTICLE 37 - ASSIGNMENTS

The CM 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 CM under the contract may be assigned.

ARTICLE 38 - USE OF PREMISES

a. The CM 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 shall not exceed those established limits in his operations.

b. The CM shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

c. The CM 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 CM shall ensure that all cutting, fitting or patching that may be required to make the work come together properly and fit it to receive or be received by work of other contractors shown upon or reasonably implied by the drawings and specifications for the completed structure, as the designer may direct.

b. Any cost brought about by defective or ill-timed work shall be borne by the party responsible therefor.

c. No Principal Trade or Specialty Contractor shall endanger any work of another such contractor by cutting, digging or other means, nor shall he cut or alter the work of any other such contractor without the consent of the designer and the affected contractor(s).

ARTICLE 40 - UTILITIES, STRUCTURES, SIGNS

a. The CM shall provide necessary and adequate facilities for water, electricity, gas, oil, sewer, and other utility services, which may be necessary and required for completion of the project. If the Owner specifies that the CM is to pay all utilities, any permanent meters installed shall be listed in the CM's name until his work is fully accepted by the Owner. The Owner may: (1) pay utilities cost directly, (2) require the CM to pay all utilities cost, (3) or reimburse the CM for the actual cost of utilities. The Owner or CM, as applicable, may recover actual costs of metered utilities from the responsible party should delays occur in project completion. Coordination of the work of the utility companies during construction is the sole responsibility of the CM.

b. If applicable Meters shall be relisted in the Owner's name on the day following completion and acceptance of the CM's work, and the Owner shall pay for services used after that date.

c. Prior to the operation of permanent systems, the CM will provide temporary power, lighting, water, and heat to maintain space temperature above freezing, as required for construction operations.

d. The CM shall ensure that the permanent building systems are in sufficient readiness for furnishing temporary climatic control at the time a building is enclosed and secured. The HVAC systems shall maintain climatic control throughout the enclosed portion of the building sufficient to allow completion of the interior finishes of the building. A building shall be considered enclosed and secured when windows**,** doorways (exterior, mechanical, and electrical equipment rooms), and hardware are installed**;** and other openings have protection, which will provide reasonable climatic control. The appropriate time to start the mechanical systems and climatic condition shall be jointly determined by the CM and the designer. Use of the equipment in this manner shall in no way affect the warranty requirements of the CM.

e. The CM shall coordinate the work so that the building's permanent power wiring distribution system shall be in sufficient readiness to provide power as required by the HVAC contractor for temporary climatic control.

f. The CM shall coordinate the work so that the building's permanent lighting system shall be ready at the time interior painting and finishing begins and shall provide adequate lighting in those areas where interior painting and finishing is being performed.

g. The CM 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 acceptance of work by the Designer and Owner, the CM shall coordinate the removal and replacement of 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 CM shall ensure that all lamps are in proper working condition at the time of final project acceptance.

h. The CM shall provide, if required and where directed, a shed for toilet facilities and shall furnish and install in this shed all water closets required for a complete and adequate sanitary arrangement. These facilities will be available to other contractors on the job and shall be kept in a neat and sanitary condition at all times. Chemical toilets are acceptable.

i. The CM shall, if required by Owner and where directed, erect a temporary field office, complete with lights, telephone, heat and air conditioning. A portion of this office shall be partitioned off, of sufficient size, for the use of a resident inspector, should the designer so direct.

j. On multi-story construction projects, the CM shall either provide or ensure that temporary elevators, lifts, or other necessary special equipment is available for the general use of all contractors. The cost for such elevators, lifts or other special equipment and the operation thereof shall either be included in the CM Construction Management Fee or specified as part of the work of a Principal Trade or Specialty Contractor and paid for as a part of the Cost of the Work.

k. The CM will erect one sign on the project if 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 CM’s name, 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 CM shall ensure that the building and surrounding area is 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. The CM shall provide an on-site refuse container(s) for the use of all Principal Trade and Specialty Contractors. The CM shall ensure that each Principal Trade and Specialty Contractor removes their rubbish and debris from the building on a daily basis. The CM shall ensure that the building is broom cleaned as required to minimize dust and dirt accumulation.

b. The CM shall provide and maintain suitable all-weather access to the building.

c. Before final inspection and acceptance of the building, the CM shall ensure that all portions of the work are clean, 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 CM 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 CM 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 CM, 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

The Construction Manager shall indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the sole negligence of the Construction Manager, its agents or employees, as determined by a court of law or as agreed to by the parties through any alternative dispute resolution. A determination of such sole negligence of the Construction Manager may include, but is not limited to, (1) the Construction Manager's performance or failure to perform its obligations under this Agreement and (2) any claim, damage, loss or expense attributable to bodily injury, sickness, disease or death, or to injury to

or destruction of personal and/or real property including the loss of use resulting wherefrom and caused by any negligent act or omission of the Construction Manager, and anyone directly or indirectly employed by the Construction Manager.

Except as otherwise set forth in this Agreement, the Construction Manager and the Owner shall not be liable to each other for any delays in the performance of their respective obligations and responsibilities under this Agreement which arise from causes beyond their control and without their fault or negligence, including but not limited to, any of the following events or occurrences: fire, flood, earthquake, epidemic, atmospheric condition of unusual severity, war, and strikes. Owner shall not be liable to the Construction Manager for acts or failures to act by the Construction Manager.

Nothing herein shall be construed as a waiver on the part of the County to any defense of any claim, including, but not limited to the defense of governmental immunity. And that the County's obligations under this paragraph shall be limited to the extent and manner of recovery pursuant to County's self-insured claim policies and North Carolina law.

ARTICLE 45 - TAXES

a. Federal excise taxes do not apply to materials entering into local government work.

b. Federal transportation taxes do not apply to materials entering into local government 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 local government 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 local government work as applicable and such costs shall be included in the bid proposal from Principal Trade and specialty Contractors and contract sum.

e. Accounting Procedures for Refund of County Sales & Use Tax Amount of county sales and use tax paid per CM's statements:

   CM's performing contracts for local government agencies shall ensure that the Principal Trade and Specialty Contractors provide information to allow the CM to give the local government agency for whose project the materials, supplies, fixtures and/or equipment was purchased a signed statement containing the information listed in N.C.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 from the contractors 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 CM.

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 CM agrees not to discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The CM agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices.

ARTICLE 48 - ASBESTOS-CONTAINING MATERIALS (ACM)

The State of North Carolina 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. Construction Managers are reminded of the requirements of instructions under 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.

ARTICLE 49 - MINORITY BUSINESS PARTICIPATION

N.C.G.S. 143-128.2 establishes a ten percent (10%) goal for participation by minority businesses in total value of work for each State building project and requires documentation of good faith efforts for meeting that goal. The document, *Guidelines for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts* including Affidavits and Appendix F are hereby incorporated into and made a part of this contract.

The CM shall identify and define contract packages (the value of which shall total to at least ten percent (10%) of the GMP) that remove barriers to participation commonly experienced by Historically Underutilized Businesses and Minority Business Enterprises as those terms are defined in North Carolina General Statute 143-128.2, hereinafter referred to as Reduced Barrier Packages (RBP). Such contract packages will be submitted to the Owner for review. As an example, RBP's may require no performance or payment bond, or may offer the participation of the CM as a guarantor or surety in the financing of material purchases by the Principal Trade and/or Specialty Contractors, provided that the CM may condition such financing participation upon the issuance of joint checks or other similar arrangements to allow the CM to verify that timely payments are made to suppliers furnishing credit. The CM may propose other and/or additional provisions for reducing barriers to participation.

The Owner shall require the CM to submit a plan for compliance with N.C.G.S.143-128.2 by approval by the Owner prior to soliciting bids for the Principal Trade and Specialty Contracts. The CM and Principal Trade and Specialty Contractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to N.C.G.S. 143-128.2.

ARTICLE 50 – CONTRACTOR EVALUATION

The CM's overall work performance on the project shall be fairly evaluated in accordance with the State Building Commission policy and procedures, for determining qualifications to compete for future capital improvement projects for institutions and agencies of the State of North Carolina. In addition to final evaluation, interim evaluation may be prepared during the progress of project. The document, Construction Manager Evaluation Procedures, is hereby incorporated and made a part of this contract. The Owner may request the CM's comments to evaluate the designer.

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 County 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 County 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

In accordance with 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 – LEFT BLANK FOR NUMBERING PURPOSES

ARTICLE 54 – TERMINATION FOR CONVENIENCE

a. Owner may at any time and for any reason terminate CM's services and work at Owner's convenience. Upon receipt of such notice, CM 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.

b. Upon such termination, CM 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 CM 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 CM prior to the date of the termination of this Agreement. CM 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.

{Signature Pages Follow}

NOW THEREFORE, the parties hereby make, agree, and execute this Contract by the below signatures of duly authorized officials or agents.

CONTRACTOR

By: _____
(Signature)

_____
(Printed Name)

_____
(Title)

_____
(Date)

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the county and State aforesaid, do hereby certify that _____ personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

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

My commission expires: _____

_____.
Notary Public

BUNCOMBE COUNTY

By: _____
(Signature)

_____
(Printed Name)

_____
(Title)

_____
(Date)

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the county and State aforesaid, do hereby certify that _____ personally appeared before me this day and voluntarily acknowledged the due execution of the foregoing instrument.

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

My commission expires: _____

_____
Notary Public

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

See contract cover form for preaudit signature.

ATTACHMENT A

Buncombe Co. Court House Renovation
100% CD GMP ESTIMATE - With Final Accepted VE
30 Valley St.
Asheville, NC

Contact: Downing/Hollars
Date: 12/9/2025

	WORK TRADE DESCRIPTION:	TOTAL	SUBCONTRACTOR
1	GENERAL REQUIREMENTS	$ 653,644	
2	BP 270 - SELECT BUILDING DEMOLITION	$ 300,470	DH Griffin
3	CONCRETE	$ 40,000	
4	MASONRY	$ 50,000	
5	BP 500 - STEEL	$ -	
6	MISC METALS	$ 10,000	
7	BP 640 - FINISH CARPENTRY, MILLWORK & CASEWORK	$ 45,410	TS Woodworks
8	BP 710 - WATERPROOFING	$ -	
10	ROOFING	$ 29,500	
11	FIREPROOFING	$ 20,000	
15	BP 920 - METAL STUD & CEILING FRAMING, DRYWALL, ACT CEILINGS & INSULATION	$ 972,953	SC Drywall
16	TILE	$ 50,000	
17	BP 950 - CEILINGS included in BP 920 Above	$ -	
18	RESILIENT FLOORING	$ 25,000	
19	BP 990 - PAINTING & COATINGS	$ 81,327	Paint AVL
20	SPECIALTIES	$ 10,000	
23	PHASING & LOGISTICS	$ 183,333	
27	BP 1530 - EXISTING FIRE SPRINKLER SYSTEM MODIFICATIONS	$ 270,435	Century
28	BP 1540 - EXISTING PLUMBING PIPING MODIFICATIONS & REPLACEMENT	$ 2,251,160	Bolton
29	BP 1550 - EXISTING HVAC SYSTEMS MODIFICATIONS & REPLACEMENT	$ 5,435,061	Comfort Systems
30	BP 1600 - ELECTRICAL SYSTEM MODIFICATIONS	$ 400,800	Fountain
33	PRECONSTRUCTION CONTINGENCY	$ -	
34	BUILDING PERMIT FEES	$ 64,975	
	COST OF WORK	**$ 10,894,067**	
35	GENERAL CONDITIONS	$ 1,898,716	
37	GENERAL LIABILITY	$ 177,623	
35	BUILDERS RISK INSURANCE	$ 58,693	
36	SUB DEFAULT INSURANCE	$ 136,176	
37	CM CONTINGENCY	$ 1,089,407	
38	P&P BOND	$ 146,732	
	SUBTOTAL	**$ 14,401,415**	
36	FEE	$ 864,085	
39	ESCALATION CONTINGENCY	$ 180,018	
	TOTAL	**$ 15,445,517**	

	ALTERNATE SAVINGS		
1	VE #1 - Local HVAC Controls	$ (1,174,460)	Accepted
2	VE #2 - Use Armstrong A770 Ceiling Tile	$ (101,945)	Accepted
3	VE #3 - 2 Stacks Not-Rolling	$ (343,036)	Accepted
	TOTAL W/ALTERNATE SAVINGS	**$ 13,826,075**	

Buncombe Co. Court House Renovation
100% CD GMP ESTIMATE - With Final Accepted VE
Estimate Clarifications
12/9/2025

Item	Description

Division 1 - General

1.1 Our GMP is based on documents as prepared by CPL titled Buncome County Courthouse Renovation dated 8/29/2025, Addendum #1 dated 9/26/25 and Addendum #2 dated 10/8/25.

1.2 Our GMP is based on receiving a Notice to Proceed by 12/12/25 and a formal contract award by 1/16/26. We expect to start on site on 3/20/26, and achieve substantial completion of the project by 2/28/2028.

1.3 We have removed the previously included Preconstruction Contingency.

1.4 We have not included what was identified as Bid Alternate M01 in CPL's Architect Addendum #2 (replacing radiator pneumatic control valves with DDC valuves and control them with the fan coil unit controllers).

1.5 We have included what we called VE #1 - namely using local controls instead of tying the mechanical work into the BAS. The vertical fan coils will have a thermostat on the unit and the horizontal fan coils will have a remote thermostat on the wall. We will provide an overflow switch for the condensate pan. The actuators will be electric, not pneumatic.

1.6 We have included what we called VE #2 - namely using Armstrong A770 flat ceiling tile in lieu of the original design of a tegular tile, and the upgrade flat tile we included in the original pricing.

1.7 We will do two (2) plumbing stacks at at time, as approved by CPL, in order to reduce the overall construction duration. (VE #3)

1.8 Our understanding is the design team will update the drawings to document the accepted VE #1 & VE #2.

1.9 We understand there are work restrictions and daytime work, Monday thru Friday is not allowed. We intend that our regular work hours will be 9:00pm to 7:00am, Sunday night to Thursday morning, so we can get inspections first thing in the morning. There will also be a significant amount of weekend work, particularly for the horizontal fan coil units. We have included a weekend work staff for 26 weeks, so we will require access to the work areas for the horizontal fan coil units accordingly.

1.10 We have included General Conditions, Fee, General Liability Insurance, Builder’s Risk Insurance, and Subcontractor Default Insurance that become lump sum at execution of the GMP.

1.11 All third-party testing, inspections, and monitoring, are assumed by Owner. This includes but is not limited to Industrial Hygienist inspections, Air Monitoring, Environmental Hazard Inspections, Materials Testing for compaction, concrete, etc., Threshold Inspections, Structural Weld Inspections, and 3rd-Party Commissioning.

1.12 This proposal excludes cost associated with pursuing LEED or any other sustainability certifications, including any waste management plans and recycled material tracking.

1.13 The GMP proposal includes the Construction Manager's Contingency. This contingency is for Vannoy Construction's use and is intended to cover cost exposures resulting from unanticipated coordination problems or Construction Manager overruns within the estimate. It is not intended to cover additional costs resulting from increases in the project scope or program, the substitution of more costly materials, or overruns in the allowances. The Construction Manager's Contingency is not intended to cover so-called 'Force Majeure' events or unknown conditions.

1.14 Any delays attributable to pandemics or public-health emergencies (including, but not limited to, COVID-19) are expressly excluded from the Contract Time. Such delays shall constitute force majeure events and will be addressed in accordance with the Contract’s force majeure provisions.

1.15 When payment is made on account of stored materials and equipment, such materials must be stored on the owner's property, and the requests made 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. Should the Construction Manager 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 warehouse approved by the designer and the owner. The material to be paid for shall be assigned to the owner and shall be inspected by the designer. Under certain conditions, the designer may approved storage of materials at the point of manufacturer, which conditions shall be approved by the designer and the owner. Security and insurance protection shall continue to be the responsibility of the Construction Manager.

BP 270 - SELECT BUILDING DEMOLITION

270.1 Our GMP does not include any abatement activities for materials contaminated with asbestos or lead, or remediation activities for materials contaminated with mold, mildew, or fungal growth.

CONCRETE

300.1 An allowance of $ 40,000 for any concrete work, including patching, rework due to coring, spalling repairs, leveling, existing conditions required to be addressed for our work, and as caused by our work.

MASONRY

400.1 An allowance of $ 50,000 for any masonry work, including wall patching, rework due to coring, spalling repairs, addressing deficiencies in fire walls or other walls as required/requested by the Owner, existing conditions required to be addressed for our work, and as caused by our work.

STEEL

500.1 An allowance of $ 10,000 for any miscellanous steel work, including any lintels, bracing, steel rework due to our work, relocations of existing steel members in the way of our work, existing conditions required to be addressed for our work, and as caused by our work.

BP 640 - FINISH CARPENTRY, MILLWORK, & CASEWORK

640.1 Requirements for the Carpentry, Millwork & Casework fabricator to be AWI Certified are excluded, per CPL response to our question that is included in our Addendum #3. We will follow AWI protocols.

ROOFING

750.1 An allowance of $ 29,500 for any roofing patching, rework, repairs, including as a result of our using the low roofs as material staging areas.

FIREPROOFING

781.1 An allowance of $ 20,000 for any miscellanous fireproofing, including any rework due to our work, maintaining ratings of existing fire rated walls not shown on the Contract Documents to be addressed, existing conditions required to be addressed for our work, and as caused by our work, or as dictated by the building inspector.

BP 920 - METAL STUD & CEILING FRAMING, DRYWALL, ACT CEILINGS & INSULATION

920.1 We have included an allowance of $ 75,000 to demo and rebuild piping chases/wall enclosures at fan coil unit piping that will need to be demolished and rebuilt in order to perform our work, particuraly on the 1st & 2nd floors where the recent project done independently of this project did not replace the piping on those floors.

920.2 We have allowed for 1,000sf of patching of the underside of the floor slab assembly in order to maintain the 1-hour fire rating, if this situation is encountered when demolition of ceilings exposed the current condition of the underside of the concrete slabs.

920.3 We have included an allowance of $ 50,000 for modifications, repairs, upgrades, rework, or patching of any existing walls, if a condition is encountered where the Owner wishes for us to address the current conditions, or conditions brought about by the work of this project.

920.4 We have not included skim coating new walls to try to match existing finishes, nor have we included skimming existing walls.

TILE

930.1 An allowance of $ 50,000 for any wall or floor tile work, including any rework due to our work, patching tile where we make piping or conduit penetrations, cuts into existing tile walls required to perform our scope of work, existing conditions required to be addressed for our work, and as caused by our work.

RESILIENT FLOORING

965.1 An allowance of $ 25,000 for any carpetting or other resilient flooring work, including any rework due to our work, patching flooring where we make piping or conduit penetrations, patching flooring around fan coil units (particuarly where new fan coil units may be smaller than existing units), cuts into existing flooring required to perform our scope of work, existing conditions required to be addressed for our work, and as caused by our work.

BP 990 - PAINTING & COATINGS

990.1 We have included an allowance of $ 50,000 for misc painting, touch-up painting, or owner-requested painting that is in addition to what is clearly shown on the current drawings.

Specialities

10.1 An allowance of $ 10,000 for any Miscellaneous Specialities, including replacing any toilet partitions or accessories, and the one (1) corner guard shown on the drawings.

BP 1530 - EXISTING FIRE SPRINKLER SYSTEM MODIFICATIONS

1530.1 We have included fifty (50) new sprinkler heads where required (most likely where minimal clearances prevent replacing the ceiling tiles without removing the sprinkler head, and code requires that any head that is removed must be replaced) beyond what is shown on the contract documents.

BP 1540 - EXISTING PLUMBING PIPING MODIFICATIONS & REPLACEMENT

1540.1 We have included an allowance of $ 45,000 for replacing any existing plumbing fixtures that are damaged due to the demolition process, difficulty in reinstallation, water, waste or vent connections, mislignment of water/sanitary connections, wear and tear on existing piping components that new fixtures are to attach to, etc.

BP 1550 - EXISTING HVAC SYSTEMS MODIFICATIONS & REPLACEMENT

1550.1 We have assumed no more than 12' of piping replacement at the fan coil units.

1550.2 We understand the piping on the 1st & 2nd floors was not replaced as part of the recently performed project done independently from this project. However, to clarify, we will connect to the original piping at the unit. We may use either a similar material to what is existing or Aquatherm based on the BP 1550 Contractor's option.

BP 1600 - ELECTRICAL SYSTEM MODIFICATIONS

1600.1

Buncombe Co. Court House Renovation
100% CD GMP ESTIMATE - HUB PARTICIPATION
30 Valley St.
Asheville, NC

Contact: Downing/Hollars
Date: 10/7/2025

	WORK TRADE DESCRIPTION:	SUBCONTRACTOR	TOTAL	% OF TOTAL:
1	GENERAL REQUIREMENTS			
2	BP 270 - SELECT BUILDING DEMOLITION	DH Griffin	$ 300,470	3.01%
3	CONCRETE	$ -		
4	MASONRY	$ -		
5	BP 500 - STEEL	$ -		
6	MISC METALS	$ -		
7	BP 640 - FINISH CARPENTRY, MILLWORK & CASEWORK	TS Woodworks	$ 3,400	0.03%
8	BP 710 - WATERPROOFING	$ -		
9	BP 744 - METAL PANELS	$ -		
10	ROOFING	$ -		
11	FIREPROOFING	$ -		
12	BP 800 - DOORS, FRAMES, AND HARDWARE	$ -		
13	BP 840 - GLASS AND GLAZING	$ -		
14	BP 891 - LOUVERS	$ -		
15	BP 920 - METAL STUD & CEILING FRAMING, DRYWALL, ACT CEILINGS & INSULATION	SC Drywall	$ -	
16	TILE	$ -		
17	BP 950 - CEILINGS included in BP 920 Above	$ -		
18	RESILIENT FLOORING	$ -		
19	BP 990 - PAINTING & COATINGS	Paint AVL	$ -	
20	SPECIALTIES	$ -		
21	BP 1040 - SIGNAGE	$ -		
22	BP 1073 - AWNINGS AND CANOPIES	$ -		
23	PHASING & LOGISTICS	$ -		
24	BP 1100 - EQUIPMENT AND APPLIANCES	$ -		
25	BP 1220 - WINDOW TREATMENTS	$ -		
26	BP 1400 - ELEVATORS	$ -		
27	BP 1530 - EXISTING FIRE SPRINKLER SYSTEM MODIFICATIONS	Century	$ -	
28	BP 1540 - EXISTING PLUMBING PIPING MODIFICATIONS & REPLACEMENT	Bolton	$ 100,000	1.00%
29	BP 1550 - EXISTING HVAC SYSTEMS MODIFICATIONS & REPLACEMENT	Comfort Systems	$ -	
30	BP 1600 - ELECTRICAL SYSTEM MODIFICATIONS	Fountain	$ -	
31	BP 3100 - SITEWORK	$ -		
32	BP 3290 - LANDSCAPING	$ -		
33	PRECONSTRUCTION CONTINGENCY			
34	BUILDING PERMIT FEES			
	COST OF WORK	**$ 9,992,116**	**$ 403,870**	**4.04%**

Buncombe Co. Court House Renovation
100 % CD Estimate - Local Participation
30 Valley St.
Asheville, NC

Contact: Downing/Hollars
Date: 12/9/2025

	WORK TRADE DESCRIPTION:	SUBCONTRACTOR	LOCAL	% OF TOTAL:
1	GENERAL REQUIREMENTS			
2	BP 270 - SELECT BUILDING DEMOLITION	DH Griffin	$ 300,470	3.0%
3	CONCRETE	$ -		
4	MASONRY	$ -		
5	BP 500 - STEEL	$ -		
6	MISC METALS	$ -		
7	BP 640 - FINISH CARPENTRY, MILLWORK & CASEWORK	TS Woodworks	$ -	
8	BP 710 - WATERPROOFING	$ -		
9	BP 744 - METAL PANELS	$ -		
10	ROOFING	$ -		
11	FIREPROOFING	$ -		
12	BP 800 - DOORS, FRAMES, AND HARDWARE	$ -		
13	BP 840 - GLASS AND GLAZING	$ -		
14	BP 891 - LOUVERS	$ -		
15	BP 920 - METAL STUD & CEILING FRAMING, DRYWALL, ACT CEILINGS & INSULATION	SC Drywall	$ -	
16	TILE	$ -		
17	BP 950 - CEILINGS included in BP 920 Above	$ -		
18	RESILIENT FLOORING	$ -		
19	BP 990 - PAINTING & COATINGS	Paint AVL	$ 81,327	0.8%
20	SPECIALTIES	$ -		
21	BP 1040 - SIGNAGE	$ -		
22	BP 1073 - AWNINGS AND CANOPIES	$ -		
23	PHASING & LOGISTICS	$ -		0.0%
24	BP 1100 - EQUIPMENT AND APPLIANCES	$ -		
25	BP 1220 - WINDOW TREATMENTS	$ -		
26	BP 1400 - ELEVATORS	$ -		
27	BP 1530 - EXISTING FIRE SPRINKLER SYSTEM MODIFICATIONS	Century	$ -	
28	BP 1540 - EXISTING PLUMBING PIPING MODIFICATIONS & REPLACEMENT	Bolton	$ 2,251,160	22.5%
29	BP 1550 - EXISTING HVAC SYSTEMS MODIFICATIONS & REPLACEMENT	Comfort Systems	$ 5,435,061	54.4%
30	BP 1600 - ELECTRICAL SYSTEM MODIFICATIONS	Fountain	$ 400,800	4.0%
31	BP 3100 - SITEWORK	$ -		
32	BP 3290 - LANDSCAPING	$ -		
33	BUILDING PERMIT FEES			
34	SUBCONTRACTOR DEFAULT INSURANCE			
	COST OF WORK	**$ 9,992,116**	**$ 8,468,818**	**84.8%**

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 270		
Bid Time: 2:00 PM	Bid Package Description:	Select Building Demolition		Certification By:

Bids Received:	Bidder #1	Bidder #2	Bidder #3	Bidder #4
Bidder Name:	DH Griffin	Trifecta	Alloy	
Base Bid Amount:	$ 296,175.00	$ 873,458.00	$ 299,500.00	
Alt # PP01: Payment & Performance Bond	$ 4,295	$ 21,836.00	$ 8,535.75	
Addendum (Received/Reviewed)	3/3	3/3	3/3	
HUB/MWSBE 1st Tier	$ 300,469.54	$ 873,458.00	$ -	
Identification of HUB	AFFIDAVIT B	AFFIDAVIT B	AFFIDAVIT B	
HUB/MWSBE Other		$ -		
MWSBE Category		A (Asian American)		
TOTAL BID	$ 300,469.54	$ 895,294.00	$ 308,035.75	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 85.00	$ 98.85	$ 95.00	
Tradesman	$ 75.00	$ 86.05	$ 95.00	
Laborer	$ 75.00	$ 66.63	$ 85.00	
Unit Prices:				
PP01: Payment and Performance Bond	$ 14.50	$ 2,500.00	$ 28.50	
CMAR-4A Asbestos Pipe Insulation Abatement & removal - 6" or less	$90	$29.50	$ 45.00	
CMAR-4B Asbestos Pipe Insulation Abatement & removal - Larger than 6"	$110	$ 36.25	$ 45.00	
CMAR-4C Asbestos Pipe Insulation Elbow Abatement & removal - 6" or less	$90	$ 50.00	$ 90.00	
CMAR-4D Asbestos Pipe Insulation Elbow Abatement & removal - Larger than 6"	$110	$ 75.00	$ 90.00	

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 640		
Bid Time: 2:00 PM	Bid Package Description:	Finish Carpentry, Millwork, & Casework		Certification By:
Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
Bidder Name:	TS Woodworks	Lentz	Modular Millwork	
Base Bid Amount:	$ 44,193.00	$ 53,375.00	$ 45,500.00	
Alt # PP01: Payment & Performance Bond	$ 1,217	$ 1,925.00		
Addendum (Received/Reviewed)	3/3	4/4	3/3	
HUB/MWSBE 1st Tier	$ -	$ -		
Identification of HUB	AFFIDAVIT B	AFFIDAVIT B		
HUB/MWSBE Other	$ 3,400.00			
MWSBE Category	F			
TOTAL BID	$ 45,410.00	$ 55,300.00	$ 45,500.00	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP			$ 1,077.00	
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages			$ (6,250.00)	
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 75.00	$ 75.00		
Tradesman	$ 65.00	$ 65.00		
Laborer	$ 45.00	$ 45.00		
Unit Prices:				
PP01: Payment and Performance Bond	$ 27.50	$ 38.50		

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 920		
Bid Time: 2:00 PM	Bid Package Description:	Metal Stud & Ceiling Framing, Drywall, ACT Ceilings & Insulation		Certification By:

Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
Bidder Name:	Strickland	SC Drywall	Cherokee Acoustical	P-Walls
Base Bid Amount:	$ 893,449.00	$ 791,555.00	$ 1,514,384.00	$ 2,565,000.00
Alt # PP01: Payment & Performance Bond	$ 26,804	$ 11,398	$ 45,432	$ 25,650
Allowance for Demo/Rebuild Existing Chases for HVAC Piping, Particularly 1st & 2nd Floors	$ 75,000	$ 75,000	$ 75,000	$ 75,000
Add to go back w/Skim Coating New Walls to Match Existing	NIC	NIC	NIC	NIC
Skim Coating of Existing Walls	NIC	NIC	NIC	NIC
Coordination/Rework of Tiles w/Sprinkler Heads	$ 10,000	$ 10,000	$ 10,000	$ 10,000
Patch 1,000sf of Underside of Floor Slabs to Maintain 1-Hour Floor Rating	$ 8,000	$ 35,000	$ 75,000	$ 75,000
Plastic to Protect Computers, etc. - In Vannoy GRs	$ -	$ -	$ -	$ -
Modifications/Repairs/Upgrades to Existing Walls	$ 50,000	$ 50,000	$ 50,000	$ 50,000
Addendum (Received/Reviewed)	3/3	3/3	3/3	3/3
HUB/MWSBE 1st Tier				$ -
Identification of HUB	AFFIDAVIT C	AFFIDAVIT B	AFFIDAVIT B	AFFIDAVIT A
HUB/MWSBE Other	TBD			
MWSBE Category	H			
TOTAL BID	$ 1,063,253.00	$ 972,953.00	$ 1,769,816.00	$ 2,800,650.00
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 55.00	$ 80.00	$ 75.00	$ 113.00
Tradesman	$ 50.00	$ 70.00	$ 75.00	$ 86.00
Laborer	$ 45.00	$ 60.00	$ 50.00	$ 65.00
Unit Prices:				
PP01: Payment and Performance Bond	$ 30.00	$ 69.45	$ 30.00	$ 10.00
CMAR-5A New Ceiling Grid Replacement only	$ 2.64	$ 3.85	$ 5.00	TBD
CMAR-5B New Ceiling Tile Replacement only	$ 3.88	$ 4.45	$ 5.00	TBD
CMAR-5C New Ceiling Grid & Tile Replacement	$ 6.52	$ 8.30	$ 10.00	TBD
CMAR-5D Existing Ceiling Grid & Tile Replacement	$ 3.30	$ 4.45	$ 15.00	TBD
CMAR-6A Patching the underside of the floor slabs	$ 8.00	$ 35.00	$ 75.00	TBD
CMAR-6B infill framing of larger floor slab holes for attachment of gypsum patches	$ 3.50	$ 60.00	$ 100.00	TBD

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date:	Bid Package No.:	BP 990		
Bid Time: 3:00 PM	Bid Package Description:	Painting & Coatings		Certification By:

Bids Received:	Bidder #1	Bidder #2	Bidder #3	Bidder #4
Bidder Name:	Carolina Premier	Charlotte Paint	Paint AVL	
Base Bid Amount:	$ 161,987.00	$ 109,084.00	$ 31,327.00	
Alt # PP01: Payment & Performance Bond	$ 25,000	$ 1,527		
Misc Painting Touch Up	$ 50,000	$ 50,000	$ 50,000	
Addendum (Received/Reviewed)	3/3	3/3	3/3	
HUB/MWSBE 1st Tier		$ 109,084.00		
Identification of HUB	AFFIDAVIT B	AFFIDAVIT B	AFFIDAVIT B	
HUB/MWSBE Other				
MWSBE Category				
TOTAL BID	$ 236,987.00	$ 160,611.00	$ 81,327.00	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 135.00	$ 63.80	$ 66.00	
Tradesman	$ 120.00	$ 58.20	$ 58.00	
Laborer	$ 85.00		$ 51.00	
Unit Prices:				
PP01: Payment and Performance Bond	$ 25.00	$ 1,527.00	$ 50.00	

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 1530		
Bid Time: 2:00 PM	Bid Package Description:	Existing Fire Sprinkler System Modifications		Certification By:
Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
Bidder Name:	Century	Sunland	A&A Fire Protection	
Base Bid Amount:	$ 248,700.00	$ 298,637.00	$ 936,000.00	
Alt # PP01: Payment & Performance Bond	$ 2,985.00	$ 2,986.00	$ 10,680.00	
Replace 50 Sprinkler Heads @ Low Clearance Limits	$ 18,750	$ 22,500	$ 22,500	
Addendum (Received/Reviewed)	2/3	3/3	3/3	
HUB/MWSBE 1st Tier	$ -	$ -	$ -	
Identification of HUB	AFFIDAVIT B	AFFIDAVIT B	AFFIDAVIT B	
HUB/MWSBE Other				
MWSBE Category				
TOTAL BID	$ 270,435.00	$ 324,123.00	$ 969,180.00	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 70.20	$ 82.50	$ 120.00	
Tradesman	$ 61.42	$ 68.00	$ 120.00	
Laborer	$ 48.75	$ 55.00	$ 120.00	
Unit Prices:				
PP01: Payment and Performance Bond	$ 12.00	$ 10.00		
CMAR-7 Provide & Install New Sprinkler Heads	$ 375.00	$ 450.00	$ 450.00	

VANNOY CONSTRUCTION

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

BUNCOMBE COUNTY GOVERNMENT — NORTH CAROLINA

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 1540		
Bid Time: 2:00 PM	Bid Package Description:	Existing Plumbing Piping Modifications & Replacement		Certification By:

Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
Bidder Name:	Bolton	HVAC Inc.		
Base Bid Amount:	$ 2,180,000.00	$ 2,875,000.00		
Alt # PP01: Payment & Performance Bond	$ 26,160.00	$ 25,000.00		
Replace Damaged Plumbing Fixtures	$ 45,000	$ 45,000		
Addendum (Received/Reviewed)	3/3	3/3		
HUB/MWSBE 1st Tier	$ -			
Identification of HUB	AFFIDAVIT A	AFFIDAVIT B		
HUB/MWSBE Other	$ 100,000.00			
MWSBE Category	F (Female)			
TOTAL BID	$ 2,251,160.00	$ 2,945,000.00	$ -	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 160.00	$ 135.00		
Tradesman	$ 135.00	$ 120.00		
Laborer	$ 120.00	$ 85.00		
Unit Prices:				
PP01: Payment and Performance Bond	$ 12.00	$ 25.00		
CMAR-3: Install provided flush valves in lieu of contractor furnished flush valves	$ 75.00	$ 175.00		

VANNOY CONSTRUCTION

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

BUNCOMBE COUNTY GOVERNMENT — NORTH CAROLINA

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 1550		
Bid Time: 2:00 PM	Bid Package Description:	Existing HVAC Systems Modifications & Replacement		Certification By:

Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
		Withdrew		
Bidder Name:	Haynes	HVAC Inc.	Comfort Systems	
Base Bid Amount:	$ 6,079,200.00		$ 5,391,095.00	
Alt # PP01: Payment & Performance Bond	$ 38,000.00		$ 43,966.00	
Allowance of any piping extensions @ 1st & 2nd Floor - NIC				
Addendum (Received/Reviewed)	3/3	3/3	3/3	
HUB/MWSBE 1st Tier	$ -	$ -		
Identification of HUB	AFFIDAVIT B	AFFIDAVIT B	AFFIDAVIT B	
HUB/MWSBE Other				
MWSBE Category				
TOTAL BID	$ 6,117,200.00		$ 5,435,061.00	$ -
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)	$ 2,551,900.00		$ 652,954.00	
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package	$ 795,455.00		$ 399,990.00	
Alt # V01PP01: Payment & Performance Bond for the Alternate BP	$ 5,900.00		$ 3,999.00	
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 210.00		$ 91.50	
Tradesman	$ 112.50		$ 87.00	
Laborer	$ 97.00		$ 69.00	
Unit Prices:				
PP01: Payment and Performance Bond	$ 6.10		$ 7.50	
CMAR-1 Owner furnished fan coil unit chilled water control valves	N/A		$ 416.30	
CMAR-2 Install Owner Provided Network Engines in Lieu of Contractor Furnished Network Engines	N/A		$ 10,000.00	
CMAR-8 DDC Control Valve & Associated Work for Existing Radiators; to be used to adjust based on actual quantities greater or lesser than Alt No. M01 quantity of 190	$ 13,431.00	$ 750.00	$ 421.04	

Buncombe Co. Court House Renovation
Plumbing Renovations Project
Guaranteed Maximum Price

	Bid Phase:	GMP		
Bid Date: 10/28/25	Bid Package No.:	BP 1600		
Bid Time: 2:00 PM	Bid Package Description:	Electrical Systems Modifications		Certification By:

Bids Received:	**Bidder #1**	**Bidder #2**	**Bidder #3**	**Bidder #4**
Bidder Name:	Emory	Fountain	Haynes	Jackson
Base Bid Amount:	$ 412,000.00	$ 396,000.00	$ 492,200.00	$ 422,490.00
Alt # PP01: Payment & Performance Bond	$ 4,940.00	$ 4,800.00	$ 2,258.00	$ 6,084.00
Addendum (Received/Reviewed)	3/3	3/3	3/3	3/3
HUB/MWSBE 1st Tier	$ -	$ -	$ -	
Identification of HUB	AFFIDAVIT A	AFFIDAVIT A	AFFIDAVIT A	AFFIDAVIT B
HUB/MWSBE Other				
MWSBE Category				
TOTAL BID	$ 416,940.00	$ 400,800.00	$ 494,458.00	$ 428,574.00
Alternates				
Alt # M01: DDC Control Valve for Radiator (assume 190 locations)				
Alt # V01: Subcontractor's Voluntary Alternate for Work of Another Bid Package				
Alt # V01PP01: Payment & Performance Bond for the Alternate BP				
CMAlt #02: Voluntary Savings Alternate if Awarded two Different Bid Packages				
Unit Prices				
Hourly Rates:				
Super/Foreman	$ 90.00	$ 112.00	$ 250.00	$ 85.00
Tradesman	$ 70.00	$ 99.00	$ 150.00	$ 60.00
Laborer	$ 50.00	$ 72.00	$ 125.00	$ 42.00
Unit Prices:				
PP01: Payment and Performance Bond	$ 12.00	$ 12.00	$ 0.49	$ 14.40
CMAR-2 Install Owner Provided Network Engines in Lieu of Contractor Furnished Network Engines				