



**BID DOCUMENTS  
FOR**

**CITY OF CONCORD  
HOUSING DEPARTMENT  
ADMINISTRATION BUILDING-  
ASBESTOS ABATEMENT**

**PROJECT NO. 2011-048**

**City of Concord Bid #2224**

**SET # \_\_\_\_\_**

ENGINEERING DEPARTMENT  
850 HIGHWAY 601, SOUTH, POST OFFICE BOX 308  
CONCORD, NORTH CAROLINA 28026-0308

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**BID ADVERTISEMENT/INVITATION TO BID**  
**FEDERAL FUNDING PROJECT**

**OCTOBER 3, 2013**

Project Title: **CITY OF CONCORD HOUSING ADMINISTRATION BUILDING ASBESTOS ABATEMENT**  
**Contract 2011-048 – BID # 2224**

Project Description: The proposed Work is generally described as follows. This project involves the abatement of asbestos from the City of Concord’s Housing Department Administration Building during the course of the building addition and renovation project (under separate contract).

Sealed Bids will be received by the City of Concord (Owner) at the address below. Please submit notarized bids in a sealed envelope by the bid opening time and date. All Bids must be in accordance with the Bidding Documents on file with the City of Concord Engineering Department. Bidders must be licensed contractors in the State of North Carolina. Bids will be received on a unit price basis. A five percent (5%) Bid security must accompany each Bid. The Successful Bidder will be required to furnish a Construction Performance Bond and a Construction Payment Bond as security for the faithful performance and the payment of all bills and obligations arising from the performance of the Contract if the total bid amount is greater than \$50,000 (see Section 16 of the Contract). Contractor and all Subcontractors will be required to conform to the labor standards set forth in the Contract Documents. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Bids, and will award to lowest responsible Bidder taking into consideration quality, performance, and time specified in Bid Form for performance of Work. Owner also reserves the right to waive informalities. **TO BE CONSIDERED AS A BIDDER FOR THIS PROJECT, CONTRACTORS MUST REGISTER WITH THE CITY OF CONCORD BY SENDING AN EMAIL THAT INCLUDES YOUR NAME AND COMPANY CONTACT INFORMATION TO [blatr@concordnc.gov](mailto:blatr@concordnc.gov).**

W. Brian Hiatt, City Manager

Engineer: City of Concord Engineering Department  
Alfred M. Brown Operations Center  
850 Warren C. Coleman Blvd. (Highway 601 S Bypass)  
P O Box 308, Concord, NC 28026-0308

For **TECHNICAL QUESTIONS**: Enrique A Blat, PE, 704.920.5403

**CONTRACT DOCUMENTS ARE AVAILABLE from the CITY OF CONCORD - WEBSITE**

Bid Opening Date: **TUESDAY OCTOBER 29, 2:00 p.m.**

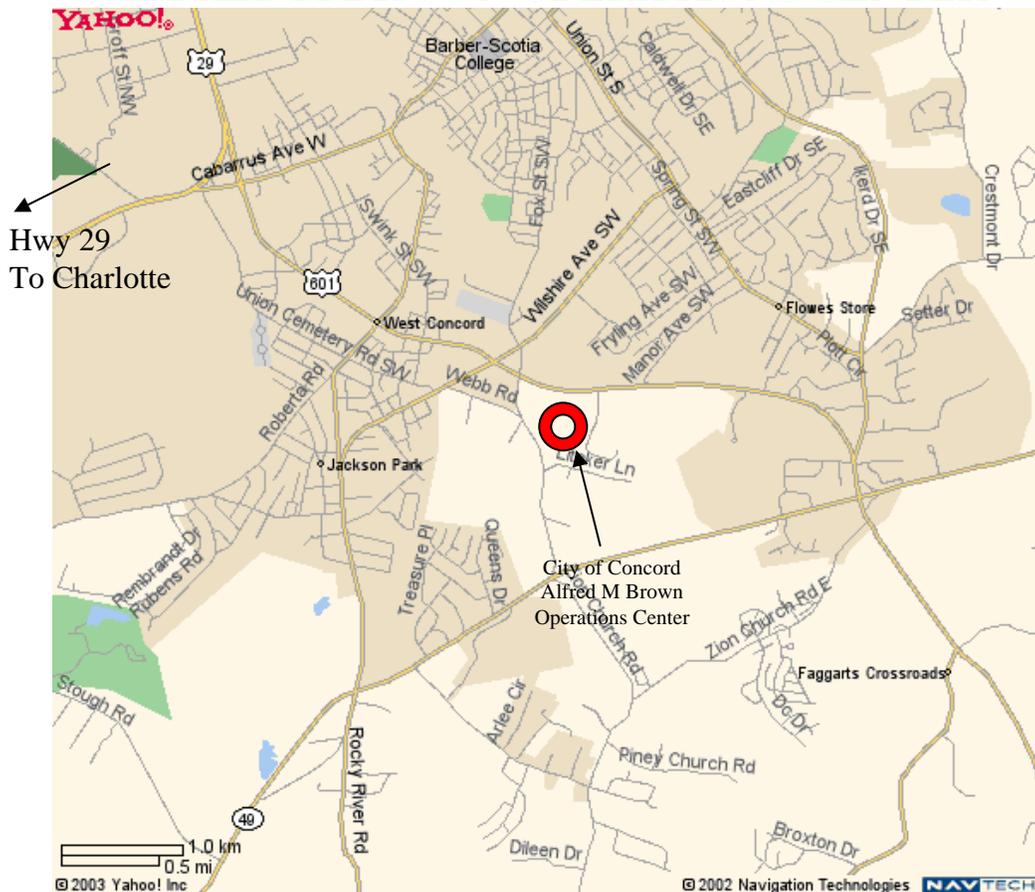
Location: City of Concord, Alfred M. Brown Operations Center  
850 Warren C. Coleman Blvd. (Hwy 601 S.)  
Conference Room C, Concord, NC 28026 (See attached map/directions)  
At said place and time, and promptly thereafter, all Bids that have been duly received will be publicly opened and read aloud.

**\*\*MANDATORY PRE-BID MEETING ON SITE–THURS, OCTOBER 17, 2013 AT 10:00AM\*\***

*Engineering Department*  
*Alfred M. Brown Operations Center*

City of Concord ● 850 Warren C. Coleman Blvd. ● P.O. Box 308 ● Concord, North Carolina 28026  
(704) 920-5425 ● Fax (704) 786-4521 ● TDD 1-800-735-8262 ● [www.concordnc.gov](http://www.concordnc.gov)

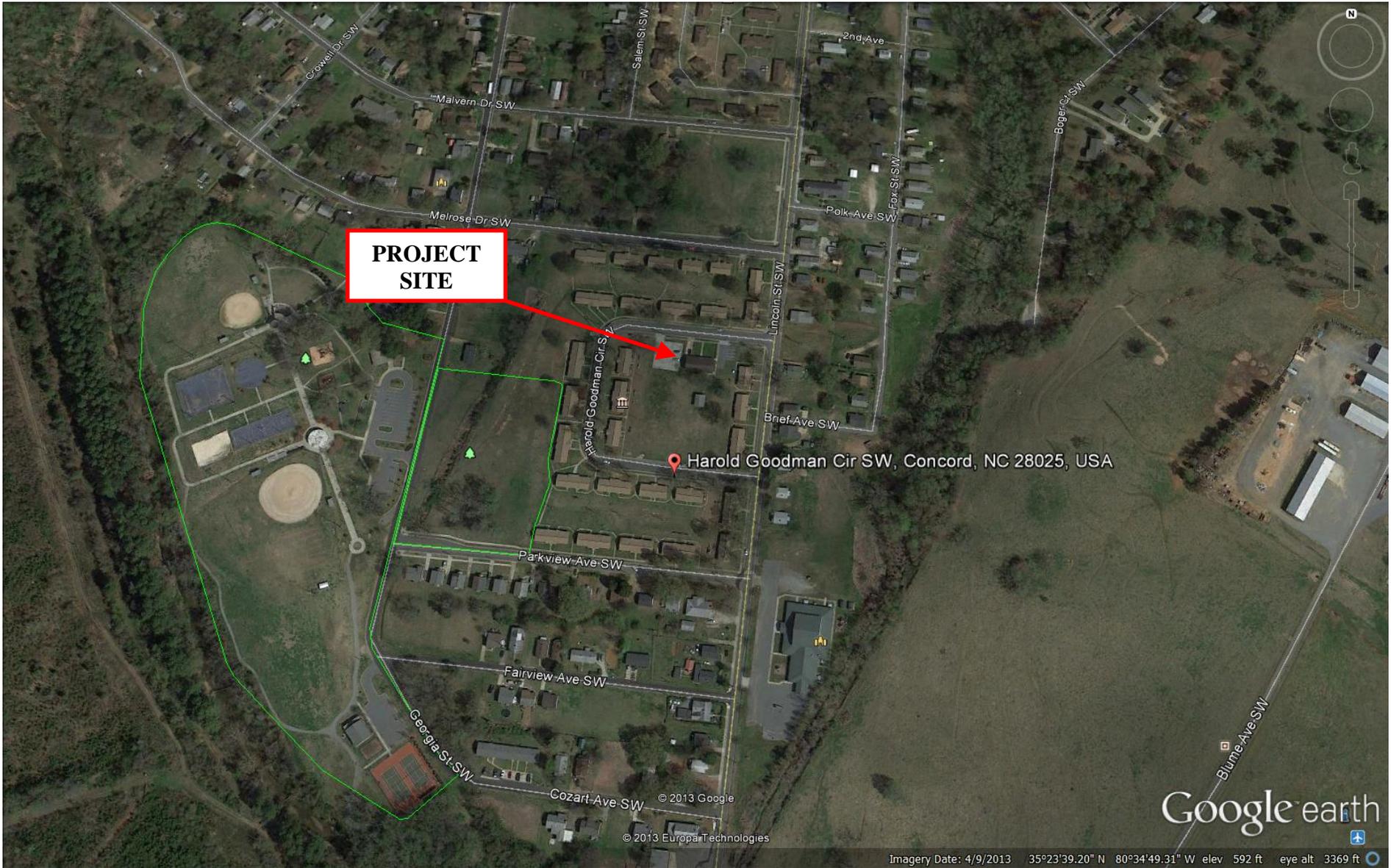
## MAP AND DIRECTIONS TO CITY OF CONCORD ALFRED M BROWN OPERATIONS CENTER



### Directions from Charlotte

Take I-77 north to I-85 north from Charlotte to Concord  
From I-85 north, take exit 49 to the right towards Lowe's Motor Speedway  
At the Lowe's Motor Speedway, turn left onto Highway 29 (Concord Pkwy) north  
Keep going north while you pass the Wal-Mart shopping center on your right  
Turn right at the light at the Chevrolet dealership onto Cabarrus Avenue  
Turn right at the next traffic light at the Walgreens onto Hwy 601 South (bypass)  
(Hwy 601 S is also Warren C. Coleman Boulevard)  
Go straight through two traffic lights at Old Charlotte Road and Wilshire Avenue  
Pass the Bi-Lo shopping center on your left  
Turn right at the next traffic light at Manor Avenue (blue & white sign on right  
for the City of Concord Alfred M. Brown Operations Center)  
You will be on the entrance road into our complex  
Follow signs to the left to Visitor Parking.  
Proceed to the front desk at the Administration Building and sign in with the  
receptionist





## INSTRUCTIONS TO BIDDERS

1. DEFINED TERMS. Terms used in these Instructions to Bidders are meanings assigned to them in the General Conditions and the Supplementary Conditions. An additional term is defined as follows:

Successful Bidder - The lowest, qualified, responsible, and responsive Bidder to whom Owner (on the basis of Owner's evaluation as herein provided) makes an award.

2. COPIES OF BID DOCUMENTS. Bid Documents which include all front-end documents may be obtained from Owner at address indicated on

Invitation to Bid on the following basis:

<b>Complete set of Bid Documents</b>	<u>Charge</u> <b>CONTACT DUNCAN-PARNELL, CONCORD</b> <b>704.782.2625</b>
--------------------------------------	--

Partial sets of Bid Documents will not be issued in response to requests by subject matter.

Complete sets of Bid Documents must be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misrepresentations resulting from the use of incomplete sets of Quoting Documents.

Owner and Engineer, in making copies of Quoting Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

3. QUALIFICATIONS OF Bidders. To demonstrate qualifications to perform the Work, Bidder may be required to submit written evidence on financial data, previous experience, present commitments, and other such data as may be requested by Owner or Engineer. Each Bid must contain evidence of Bidder's qualification to do business in the state where the Project is located, or Bidder must agree to obtain such qualification prior to award of the Contract.

4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE. It is the responsibility of each Bidder, before submitting a Bid, to (a) thoroughly examine the Contract Documents, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance, or furnishing of the Work, (c) consider federal, state, and local laws and regulations that may affect cost, progress, performance, or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors, or discrepancies discovered by Bidder in the Contract Documents.

4.02. Underground Facilities. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site are based upon information and data furnished to Owner and Engineer by owners of such underground facilities or others, and Owner and Engineer disclaim responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Supplementary Conditions.

4.03. Additional Information. Before submitting a Bid, each Bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests, and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface, and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.

On request 24 hours in advance, Owner will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes and clean up and restore the site to its former condition upon completion of such explorations. Arrangements for site visits shall be made by calling the office of the Director of Engineering for the City of Concord at 704.920.5425.

4.04. Easements. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and other lands designated for use by Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Contractor. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by Owner unless otherwise specified in the Contract Documents.

4.05. Unit Price Contracts. Bidders must satisfy themselves of the accuracy of the estimated quantities in the Bid schedule by examination of the site and a review of the drawings and the specifications, including the addenda. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of work or the nature of the work to be done.

4.06. Bidder's Representation. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement concerning examination of the Contract Documents and the site, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

5. INTERPRETATIONS AND ADDENDA. All questions about the meaning or intent of the Quoting Documents and the Contract Documents shall be submitted to Owner in writing. Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Quoting Documents. Questions received less than 10 days prior to the date for opening of Bids may not be answered. Only answers issued by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

6. **BID SECURITY**. **Each Proposal must be accompanied by a deposit equal to 5% of the net price bid.** This deposit may consist of cash, or a Cashier's Check issued by, or a Certified Check drawn on a Bank or Trust Company authorized to do business in North Carolina, or on a Bank insured by the Federal Deposit Insurance Corporation, or a U.S. Money Order, payable to the City of Concord or 5% Bid Bond in the form required by G.S. 143-129 as amended, issued by an Insurance Company authorized to do business in North Carolina, said deposit to be retained in the event of failure of the successful bidder to execute a formal contract within ten (10) days after award or to give satisfactory surety required.

The Bid security of the Successful Bidder (if so required) will be retained until such Bidder has executed the Agreement, furnished the required contract security (if so required), and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required contract security within the number of days set forth in the Bid Form, Owner may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security (if so required) of other Bidders whom Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Agreement or the day after the last day the Bid remain subject to acceptance as set forth in the Bid Form, whereupon Bid security furnished by such Bidders will be returned. Bid security accompanying Bid which are deemed by Owner to be noncompetitive will be returned within 7 days after the designated Bid opening.

7. CONTRACT TIMES. The numbers of calendar days within which, or the dates by which, the Work is to be substantially completed and also completed and ready for final payment (the Contract Times) are set forth in the Bid Form.

8. LIQUIDATED DAMAGES. Provisions for liquidated damages, if any, are set forth in the Agreement.

9. SUBSTITUTES OR "OR-EQUAL ITEMS. Bidder's attention is directed to Article 6.5 of the General Conditions concerning substitutes and "or-equal" items. Where an item or material is specified by a proprietary name, it is done for the purpose of establishing a basis of quality and not for the purpose of limiting competition.

The Engineer's intent is to consider alternative products which have the desired essential characteristics. The Engineer will consider any such products offered. Requests for acceptance of alternative products shall be made through Bidders quoting as prime Contractors. Acceptances for substitutions will not be granted directly to suppliers, distributors, or subcontractors. Pursuant to Section 133-3, General Statutes of North Carolina, the following procedures shall be used:

Bidders desiring to submit alternative product proposals for prior acceptance of the Engineers shall submit, in writing, such proposals from   n/a  , until   n/a  . Applications received after this time will not be reviewed. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute, including drawings, cuts, performance and test data, and other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment, or other work that incorporation of the substitute would require shall be included. The Engineer shall consider and either accept or reject all alternative product proposals submitted.

If, by the close of the fifth day prior to the deadline for receiving Bid, the Engineer has accepted any alternative product proposals, the Quoting Documents shall be modified to include the alternative products. The Engineer shall publish the modification in an Addenda at least 5 days prior to the deadline for receiving Bids. The Engineer's decision of acceptance or rejection of a proposed substitute shall be final.

10. SUBCONTRACTORS, SUPPLIERS, AND OTHERS. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to Owner in advance of a specified date prior to the Effective Date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within 3 days after the opening submit to Owner the List of Subcontractors completed with all such Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work for which such identification is required. The list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person, or organization, if requested by Owner. If Owner or Engineer after due investigation has reasonable objection to any proposed Subcontractor, Supplier, or other person or organization, Owner may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in the Bid.

All Subcontractors shall be a licensed utility contractor in the State of North Carolina.

11. BID FORM. The Bid Form is bound in the Quoting Documents and shall not be removed therefrom. Bid Forms must be completed in ink.

Bids by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign for the corporation). Bids by partnerships must be executed in the partnership name and signed by a partner. Bids by joint ventures shall be signed by each participant in the joint venture or by a representative of the joint venture accompanied by evidence of authority to sign for the joint venture.

The names of all persons signing shall be legibly printed below the signature. A Bid by a person who affixes to his signature the word "president", "secretary", "agent", or other designation without disclosing his principal may be held to be the Bid of the individual signing. When requested by Owner, evidence of the authority of the person signing shall be furnished.

All blanks in the Bid Form shall be filled. A Bid price shall be indicated for each unit price item listed therein, or the words "No Bid", "No Charge", "No Change", or other appropriate phrase shall be entered.

The Bid shall contain an acknowledgment of receipt of all Addenda; the numbers and dates of which shall be filled in on the Bid Form.

No alterations in Bids, or in the printed forms therefore, by erasures, interpolations, or otherwise will be acceptable unless each such alteration is signed or initialed by the Bidder; if initialed, Owner may require the Bidder to identify any alteration so initialed.

11.01. Bid Pricing. The Bidder shall complete the schedule of unit prices included in the Bid Form and shall accept all fixed unit prices listed therein.

The total Bid will be determined as the sum of the products of the estimated quantity of each item and the unit price Bid. The final Contract Price will be subject to adjustment according to final measured, used, or delivered quantities as provided in Article 9.7 of the General Conditions, and the unit prices in the Bid will apply to such final quantities except that unit prices will be subject to change by Change Order as stipulated in the Supplementary Conditions.

11.02. Contingency. The Contingency is to be added to the Bid price and is to be used for minor change order items. If the Contingency is to be used, a scope of work and price would be negotiated. The Contingency is for the sole use of Owner. A change order will be issued to delete any unauthorized portion of the Contingency.

12. SUBMISSION OF BIDS. Bids shall be submitted at the time and place indicated in the Invitation to Bid, or the modified time and place indicated by Addendum. Bids shall be enclosed in a sealed envelope or wrapping, addressed to:

The City of Concord  
W. Brian Hiatt, City Manager  
c/o Sue Hyde, PE, City Engineer  
P.O. Box 308  
850 Warren C. Coleman Blvd.  
Concord, North Carolina 28026-0308

Bids shall be marked with the name, license number, and address of the Bidder and shall be accompanied by the Bid security (if required) and other required documents. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

Each Bid envelope shall be identified on the outside with the words **'BID FOR CITY OF CONCORD HOUSING DEPARTMENT ADMINISTRATION BUILDING- ASBESTOS ABATEMENT #2011-048'**

Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

**One copy of the bound documents containing the Bid Form must be submitted with the Bid.**

Oral, telephone, facsimile, or telegraph Bids are invalid and will not receive consideration.

No Bidder may submit more than one Bid. Multiple Bids under different names will not be accepted from one firm or association.

A conditional or qualified Bid will not be accepted.

13. MODIFICATION AND WITHDRAWAL OF BIDS. Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

If, within 24 hours after Bids are opened, any Bidder files a duly signed, written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake

in the preparation of its Bid, that Bidder may withdraw its Bid and the Bid security (if any) will be returned. Thereafter, that Bidder will be disqualified from further quoting on the Work to be provided under the Contract Documents.

14. OPENING OF BIDS. Bids will be opened at the office and at the discretion of the Director of Engineering and read aloud.

The procedure for opening Bids will follow guidelines issued by the State Building Commission dated December 10, 1990, and endorsed by the Consulting Engineers Council of North Carolina.

15. BIDS TO REMAIN SUBJECT TO ACCEPTANCE. All Bids will remain subject to acceptance for the number of days set forth in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the security (if any) prior to that date.

16. AWARD OF CONTRACT. Owner reserves the right to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced, or conditional Bids, and will award to lowest responsible Bidder taking into consideration quality, performance, and time specified in Bid Form for performance of Work. Owner also reserves the right to waive informalities.

In evaluating Bids, Owner will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternatives, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

Owner may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work for which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the Supplementary Conditions. Owner also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.

Owner may conduct such investigations as Owner deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to Owner's satisfaction within the prescribed time.

If the Contract is to be awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of Owner. If the Contract is to be awarded, Owner will give the Successful Bidder a Notice of Award within the number of days set forth in the Bid Form. The evaluation of Suppliers' or manufacturers' data submitted with the Bid, or submitted upon request prior to the Notice of Award, will include consideration of the following:

Owner-required inventory of spare parts.

Building design changes which would be required to accommodate the proposed materials and equipment.

Installation requirements and related engineering, training, and operating costs.

Experience and performance record of the Supplier or the manufacturer.

Maintenance and frequency of inspections required to assure reliable performance of the equipment.

Suppliers' or manufacturers' service facilities and availability of qualified field service personnel.

Efficiency and related operating expense during the anticipated useful life of the equipment.

17. CONTRACT SECURITY. The General Conditions set forth Owner's requirements as to Performance and Payment Bonds (required). These Bonds shall be delivered to Owner with the executed Agreement.

18. SIGNING OF AGREEMENT. When Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by two unsigned counterparts of the Agreement with all other written Contract Documents attached. Within the number of days set forth in the Bid Form, the Successful Bidder shall sign, leaving the dates blank, and deliver the required number of counterparts of the Agreement and attached documents to Owner with the required Bonds and power of attorney. Within 30 days thereafter, Owner shall execute all copies of the Agreement and other Contract Documents submitted by Contractor (Successful Bidder); shall insert the date of contract on the Agreement, Bonds, and power of attorney; and shall distribute signed copies as stipulated in the Agreement.

Should the Owner not execute the Contract within the period specified, the Successful Bidder may, by written notice, withdraw his signed Contract. Such notice or withdrawal shall be effective upon receipt of the notice by the Owner.

19. SALES AND USE TAXES. Provisions for sales and use taxes, if any, are set forth in the Supplementary Conditions.

20. RETAINAGE. Provisions concerning retainage are set forth in the Agreement.

21. LAWS AND REGULATIONS. Modifications, if any, to the General Conditions concerning Laws and Regulations are set forth in the Supplementary Conditions. Additional provisions, if any, concerning Laws and Regulations are set forth in the Agreement.

21.01. Collusive Bidding. In accordance with Section 112(c) of Title 23 USC, and G.S. 75-5(b)(7) of the State of North Carolina, the Contractor (Bidder), by submission and execution of this bid or Bid, certifies that he has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding or quoting in connection with his Bid on this project.

End of Section

**DEBARRED FIRMS CERTIFICATION FORM**  
**[MUST BE COMPLETED & SUBMITTED WITH BID]**

**City Project #2011-048**

The undersigned hereby certifies that the firm of \_\_\_\_\_ has not been suspended by the State of North Carolina or any agency or department there of for conviction or indictment or any of the offenses enumerated in G.S. 133-27 nor will award subcontracts of any tier to firms that have been suspended for conviction or indictment of any of the offenses enumerated in G.S. 133-27.

\_\_\_\_\_  
Name of Firm

ATTEST \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

Sworn and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 2013.

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

**STANDARD FORM OF  
PERFORMANCE BOND**

Date of Execution of this Bond \_\_\_\_\_

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

Name and Address  
of Surety \_\_\_\_\_  
\_\_\_\_\_

Name and Address of  
Contracting Body \_\_\_\_\_  
\_\_\_\_\_

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

Contract That certain contract by and between the Principal and the  
Contracting Body above named dated \_\_\_\_\_  
for \_\_\_\_\_  
\_\_\_\_\_

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

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached;

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

**PERFORMANCE BOND: (Continued)**

THIS PERFORMANCE BOND is made and given pursuant to the requirements and provisions of Section 129 of Chapter 143 of the General Statutes of North Carolina and pursuant to Article 3 of Chapter 44-A of the General Statutes of North Carolina, and each and every provision set forth and contained in Section 129 of Chapter 143 and in Article 3 of Chapter 44-A of the General Statutes of North Carolina is incorporated herein, made a part hereof, and deemed to be conclusively written into this Bond.

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

WITNESS:

\_\_\_\_\_  
Principal (Name of individual and trade name, partnership, corporation, or joint venture)

\_\_\_\_\_  
(Proprietorship or Partnership)  
Printed Name \_\_\_\_\_

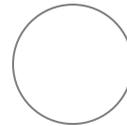
BY \_\_\_\_\_ (SEAL)  
Printed Name \_\_\_\_\_

TITLE \_\_\_\_\_  
(Owner, Partner, Office held in corporation, joint venture)

ATTEST: (Corporation)

**(Corporate Seal of Principal)**

BY \_\_\_\_\_  
Printed Name \_\_\_\_\_



TITLE \_\_\_\_\_  
(Corporation Secretary or Assistant Secretary Only)

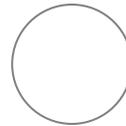
\_\_\_\_\_  
Surety (Name of Surety Company)

WITNESS:

BY \_\_\_\_\_  
Printed Name \_\_\_\_\_

TITLE \_\_\_\_\_ Attorney in Fact

**(Corporate Seal of Surety)**



COUNTERSIGNED:

\_\_\_\_\_  
(Address of Attorney in Fact)

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

**NOTICE OF AWARD**

TO:

FROM: City of Concord City Council (OWNER)  
P.O. Box 308  
26 Union Street, South  
Concord, North Carolina 28026-0308

PROJECT:  
**BID FOR CITY OF CONCORD HOUSING DEPARTMENT ADMINISTRATION BUILDING-  
ASBESTOS ABATEMENT #2011-048**

You are hereby notified that the bid submitted by you for the above named project in response to the City of Concord's Invitation to Bid dated **OCTOBER 3, 2013** in the amount of

\_\_\_\_\_ and \_\_\_\_\_/100 DOLLARS

(\$\_\_\_\_\_) has been accepted.

You are hereby required to execute the formal AGREEMENT with the City of Concord City Council and to furnish any and all Contractor's Bond(s), Certificate of Insurance and Power of Attorney(s) along with other documents pertaining to the work as designated by the City of Concord.

If you fail to execute said AGREEMENT and to furnish this and any other required documents pertaining to the work within ten (10) days from the date of delivery of this NOTICE OF AWARD, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your bid as abandoned and to award the work covered by your proposal to another, or to re-bid the work or otherwise dispose thereof as the Owner may see fit.

**Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 2013\_\_\_\_\_**

City of Concord, North Carolina

CONTRACTOR

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

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

Title: City Manager

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

*ACCEPTANCE OF NOTICE OF AWARD*

Receipt of the above NOTICE OF AWARD is hereby acknowledged this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTICE TO PROCEED**

TO:

FROM: City of Concord City Council (OWNER)  
P.O. Box 308  
26 Union Street, South  
Concord, North Carolina 28026-0308

PROJECT:  
**BID FOR CITY OF CONCORD HOUSING DEPARTMENT ADMINISTRATION BUILDING-  
ASBESTOS ABATEMENT #2011-048**

Contract Amount: \_\_\_\_\_ and \_\_\_/100 DOLLARS  
(\$\_\_\_\_\_).

You are hereby notified to commence work on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2013, pending acceptance of your Certificate of Insurance and any other required documents.

Your project final completion date is therefore the \_\_\_\_\_ day of \_\_\_\_\_, 2013, and as set forth in the above named project's schedule unless an extension is granted by the City of Concord Director of Engineering in writing.

City of Concord, North Carolina

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

Title: City Manager

Dated this the \_\_\_\_ day of \_\_\_\_\_, 2013\_.

For Office Use Only:  
Charge to P.O. # \_\_\_\_\_  
Due \_\_\_\_\_

City of Concord  
Post Office Box 308  
Concord, North Carolina 28026-0308

**PROJECT:**

Date Notice to Proceed:  
Completion Date:  
Days Remaining in Contract:  
Percent Work Complete:  
Percent Time Complete:  
Percent Payment Complete:

**APPLICATION FOR PAYMENT NO. \_\_\_\_\_ SHEET NO. \_\_\_\_\_ OF**

**PERIOD FROM: \_\_\_\_\_ TO:**

CERTIFICATE OF THE CONTRACTOR

To the best of my knowledge and belief, I certify that this periodical estimate is correct and all work has been performed and materials supplied in full accordance with the terms and conditions of the contract documents between the undersigned contractor and the City of Concord.

**GROSS AMOUNT OF PARTIAL PAYMENT ------\$**

**LESS: RETAINAGE AT \_\_\_\_\_ PERCENT ----- \$**  
**PREVIOUS PAYMENT ----- \$**  
**LIQUIDATION DAMAGES**  
**\_\_\_\_\_ DAYS @ \$ \_\_\_\_\_ ------\$**  
**OTHER DEDUCTIONS:**  
\_\_\_\_\_  
\_\_\_\_\_

**TOTAL DEDUCTIONS ----- \$**

**NET AMOUNT DUE THIS ESTIMATE ------\$**

Name of Contractor: \_\_\_\_\_ Address:

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date:

CERTIFICATE OF CONSTRUCTION ADMINISTRATOR/ENGINEER

I certify that I have verified this periodical estimate and that to the best of my knowledge and belief, it is a true and correct statement of work performed and materials supplied under the contract.

Consultant Engineer: \_\_\_\_\_ Date:  
Construction Administrator: \_\_\_\_\_ Date:

**APPROVED AND PAYMENT RECOMMENDED:**

**CITY OF CONCORD**

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date:

Pay Request

ITEM	DESCRIPTION	QUANTITY		UNIT PRICE	TOTAL PRICE	QUANT. THIS EST.	TOTAL THIS EST.	QUANT. PREV. EST.	TOTAL PREVIOUS	QUANT. TO DATE	TOTAL TO DATE	QUANT. DIFF.	TOTAL DIFF.
1			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
2			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
3			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
4			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
5			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
6			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
7					\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
8			EA		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
9			LBS		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
10			SF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
11			SF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
12			LF		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
13													
a			EA		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
b			EA		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
c			EA		\$ -		\$ -		\$ -	0.00	\$ -	0.00	\$0.00
Add 1			EA				\$ -		\$ -	0.00	\$ -	0.00	\$0.00
Add 2			LS				\$ -		\$ -	0.00	\$ -	0.00	\$0.00
Add 3			LF				\$ -		\$ -	0.00	\$ -	0.00	\$0.00
Add 4			SY				\$ -		\$ -	0.00	\$ -	0.00	\$0.00
Add 5			SY				\$ -		\$ -	0.00	\$ -	0.00	\$0.00
	<b>Base Bid</b>	\$			\$ -		\$ -		\$ -		\$ -		\$0.00
	<b>10 % Contingency</b>	\$			\$ -								\$ -
	<b>Total Base Bid</b>	\$			\$ -								\$0.00

**CITY OF CONCORD  
CONCORD, NORTH CAROLINA  
CONTRACT CHANGE ORDER**

**Project:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
\_\_\_\_\_

**Owner:** City of Concord **Change Order No.** \_\_\_\_\_

**To:** \_\_\_\_\_  
(CONTRACTOR)

**Account No.** \_\_\_\_\_

**Purchase Order No.** \_\_\_\_\_

You are hereby requested to make the following changes in this Contract to comply with the provisions of the attached and/or the original Contract Documents.

Item No.	Description of Changes	Additions	Deductions
		\$0.00	\$0.00

**Original Contract Amount**

**Net Changes by Previous Change Orders**

**Net Changes this Change Order** \$0.00

**New Contract Amount**

\$0.00

The Contract Time will be \_\_\_\_\_ by \_\_\_\_\_ calendar days.

The Completion Date as of this Change Order is: \_\_\_\_\_

**Accepted:** (Contractor) \_\_\_\_\_

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Accepted:** **CITY OF CONCORD**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Finance Director**

## CERTIFICATE OF INFRASTRUCTURE COMPLETION

<b>PROJECT NAME &amp; NUMBER:</b>	
<b>CONTRACTOR NAME &amp; ADDRESS:</b>	<b>OWNER NAME &amp; ADDRESS:</b>
<b>MISCELLANEOUS INFORMATION:</b>	
<b>INSPECTOR:</b>	

The following items have been inspected, reviewed and found to be complete in substantial accordance with the approved plans and specifications. The dates of completion are those agreed upon by the City of Concord when all construction work and testing was completed. These dates DO NOT initiate the start of any warranty periods of said items(s). Warranty periods shall begin as specified on the CERTIFICATE OF FINAL COMPLETION.

Stormwater System	Approved: _____ Date: _____
Curb & Gutters	Approved: _____ Date: _____
Sanitary Sewer	Approved: _____ Date: _____
Potable Water	Approved: _____ Date: _____
Street Paving	Approved: _____ Date: _____
Sidewalks	Approved: _____ Date: _____
Other	Approved: _____ Date: _____

**CITY OF CONCORD**

**FIELD ORDER**

***ENGINEERING DEPARTMENT***

*Post Office Box 308*

A. Concord, North Carolina 28026-0308

FIELD ORDER NO \_\_\_\_\_ CONTRACT \_\_\_\_\_ DATE \_\_\_\_\_

PROJECT \_\_\_\_\_

LOCATION \_\_\_\_\_

a) TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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THIS ORDER AUTHORIZES YOU TO PROCEED WITH THE ALTERATIONS AND/OR ADDITIONS TO THE WORK AS DESCRIBED HEREIN, IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF OUR STANDARD FORM OF CONTRACT.

**DESCRIPTION OF WORK:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- QUOTATION RECEIVED AND APPROVED BY THE CITY OF CONCORD.
- QUOTATION NOT RECEIVED. PLEASE FURNISH QUOTATION IMMEDIATELY TO THE CITY OF CONCORD FOR CHECK AND APPROVAL.
- TIME AND MATERIAL BASIS. FURNISH TIME AND MATERIAL REPORTS DAILY TO THE CITY OF CONCORD FOR VERIFICATION AND SIGNATURE.
- OTHER \_\_\_\_\_

AUTHORIZED BY: \_\_\_\_\_

NORTH  
CAROLINA  
SALES TAX  
REPORT

OWNER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

PROJECT: \_\_\_\_\_

PURCHASE ORDER: \_\_\_\_\_

DATE	VENDOR NAME	INVOICE NO.	NET INVOICE AMOUNT	STATE TAX AMOUNT	COUNTY TAX AMOUNT	SPECIAL COUNTY TAX	COUNTY PAID
TOTAL							

I certify that the above listed vendors were paid sales tax upon purchases of materials during the period covered by the Construction Estimate, and the property upon which such taxes were paid with or will be used in the performance of this contract. No tax on purchases or rentals of tools and/or equipment is included in the above list. All of the materials above became a part of or is annexed to the building or structure being erected, altered or repaired.

\_\_\_\_\_  
Contractor or Subcontractor Name  
(PRINT)  
Signature  
: \_\_\_\_\_  
Name  
(print): \_\_\_\_\_  
Title: \_\_\_\_\_

SWORN AND SUBSCRIBED BEFORE  
ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
NOTARY  
PUBLIC

ON \_\_\_\_\_  
MY COMMISSON EXPIRES \_\_\_\_\_

North Carolina 811, Inc.

North Carolina 811, Inc., a non-profit organization funded by participating utility companies and municipalities in the interest of community and job safety and improved service through damage reduction to the utilities.

**A ONE CALL TOLL FREE TELEPHONE NUMBER, 1-800-632-4949, PROVIDES AN AVENUE TO ALL OF THE PARTICIPATING MEMBERS FROM ANY POINT WITHIN THE STATE OF NORTH CAROLINA.**

Anyone proposing to excavate, dig, bore, tunnel, blast or disturb the earth in any manner in which buried utilities may be damaged is requested to call the toll-free number between the hours of 6:00 a.m. and 10:00 p.m., Monday through Friday, forty-eight hours before starting the proposed work.

Within minutes of your telephone call, the participating members will be made aware of your plans and will be given pertinent information that has been provided by you about your planned work. You will be told the names of the participating members from whom you can expect a response - if there are buried facilities in the path of your activity, the route of the utilities will be staked and/or marked at no expense to you. If there are no facilities in the area of the planned work, you will be called or notified by a representative of a participating company accordingly.

Should a non-participating utility operator be serving your area, we recommend that you call them on an individual basis. All utility operators, whether company or municipality, will be provided an opportunity to become a member of North Carolina One Call Center, Inc.

Naturally, knowing the route of utilities, the excavator is expected to exercise caution and to avoid damage as the project progresses.

Damage prevention does not just happen – it is a planned and orderly process through which each of us can participate - **YES, WE CAN AND WE WILL DRAMATICALLY REDUCE DAMAGES TO THE UTILITIES IN THE STATE OF NORTH CAROLINA!! THANKS FOR YOUR HELP.**

**BEFORE YOU DIG  
IN THE INTEREST OF COMMUNITY AND JOB SAFETY AND IMPROVED SERVICE**

**CALL NC811, INC.  
1-800-632-4949 OR 811**

## STANDARD FORM CONSTRUCTION CONTRACT

This contract is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the City of CONCORD (“City”) and \_\_\_\_\_ (“Contractor”), (x) a corporation, ( ) a professional corporation, ( ) a professional association, ( ) a limited partnership, ( ) a sole proprietorship, or ( ) a general partnership; organized and existing under the laws of the State of \_\_\_\_\_.

**Sec. 1. Background and Purpose.** This project involves the abatement of asbestos from the City of Concord’s Housing Department Administration Building during the course of the building addition and renovation project (under separate contract).

**Sec. 2. Services and Scope to be Performed.** The Contractor shall provide asbestos abatement construction services at the charges set forth either in this paragraph or in Exhibit “A”. Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties.

In this contract, “services” means the services that the Contractor is required to perform pursuant to this contract and all of the Contractor’s duties to the City that arise out of this contract. Any amendments, corrections, or change orders by either party must be made in writing signed in the same manner as the original. (This form may be used for amendments and change orders.) The City reserves the right to refuse payment for any work outside that authorized herein or pursuant to a duly approved amendment or change order.

**Sec. 3. Complete Work without Extra Cost.** Unless otherwise provided, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

**Sec. 4. Compensation.** The City shall pay the Contractor for the Work as described in this paragraph below OR as described in Exhibit A attached. In the event of a conflict, the provisions of this paragraph shall control. Any additional expenses or charges shall only be paid after both the City and the Contractor agree to and execute a written change order. The City shall not be obligated to pay the Contractor any fees, payments, expenses or compensation other than those authorized in this contract or in a duly-approved change order.

**Sec. 4a. Retainage.** The City shall withhold no retainage on Contracts having a “total project cost” of less than \$100,000.00. The City may withhold retainage on contracts having a total project cost between \$100,000 and \$200,000. The City shall withhold retainage on contracts whose total project cost exceeds \$300,000.

When withheld, retainage shall equal no more than five percent of each progress payment. When the project is fifty per cent complete, the City shall not retain anything from future project payments provided that (i) the surety concurs in writing, (ii) the Contractor continues to perform satisfactorily, (iii) any non-conforming work identified in writing by the architect, engineer(s) or City has been corrected by the Contractor and accepted by the architect, engineer(s) or City. However, if the City determines that the Contractor’s performance is unsatisfactory, the City may withhold up to five percent retainage from each project payment. The City may withhold additional amounts above five percent for unsatisfactory job progress, defective construction not remedied, disputed work, third party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

Definitions:

“Total Project Cost”: Total value of the Contract and any approved change orders or amendments.

“Project Fifty Percent Complete”: When the Contractor’s gross project invoices (excluding the value of the materials stored off-site) equal or exceed fifty percent of the value of the contract, except that the value of materials stored on-site shall not exceed twenty percent of the Contractor’s gross project invoices for the purpose of determining whether the project is fifty percent complete.

**Sec. 4b. Liquidated Damages.** The contractor shall complete all work within 60 days from notice to proceed. If this deadline is missed, the City will charge liquidated damages to the contractor. Liquidated damages for failure to meet the deadline as described in this section shall be \$100.00 per calendar day.

**Sec. 5. Term.** The Contractor shall commence work within \_\_\_\_\_ ( ) days of the date of its receipt of written Notice to Proceed from the City. The date that is \_\_\_\_\_ ( ) days from the date of the Contractor’s receipt of the Notice to Proceed shall be the “Commencement Date.” All work as set forth in the Scope of Services in Exhibit “A” shall be completed within \_\_\_\_\_ ( ) calendar days of the Commencement Date. The date that is \_\_\_\_\_ ( ) calendar days from the Commencement Date shall be the “Completion Date.” Time is of the essence with regard to this Project. If Contractor’s obligations are not completed by the Completion Date, the City reserves the right to nullify this Agreement, order the Contractor to immediately cease all work under this Agreement and vacate the premises, and to seek professional services equivalent to those outlined in Exhibit “A.” The Contractor shall be held accountable for all damages incurred by the City as a consequence of the missed Completion Date. The exercise of any of these rights by the City shall not be interpreted to prejudice any other rights the City may have in law or equity. This Contract shall not be automatically extended unless agreed to in writing by the City or as provided in Exhibit “A”.

**Sec. 6. Contractor’s Billings to City.** Payments will be made in accordance with the schedule found in this section below OR attached at Exhibit A. Contractor shall submit an original pay request (invoice) to the City Purchasing Agent by the first of each month in order to expedite payment. Upon receipt of the request the City Purchasing Agent shall verify the amounts and if correct forward the request to the Accounts Receivable Division of the Finance Dept. Final payment on the contract shall be made in 45 days, except in the case of retainage. Within 60 days after the submission of the final pay request, the City (with the written consent of the surety) shall release to the Contractor all retainage payments IF the City receives a certificate of substantial completion from the architect, engineer or designer-in-charge of the project OR the City receives beneficial occupancy and use of the project. In either case, the City may retain up to 2.5 times the estimated value of the work to be completed or corrected.

**Sec. 7. Insurance.** Contractor shall maintain and cause all sub-contractors to maintain insurance policies at all times with minimum limits as follows:

<u>Coverage</u>	<u>Minimum Limits</u>
Workers’ Compensation	\$100,000 each accident, \$100,000 bodily injury by disease each employee, \$500,000 bodily injury by disease policy limit
General Liability	\$1,000,000 per occurrence regardless of the contract size
Automobile Liability	\$1,000,000 per occurrence regardless of the contract size
Umbrella	<input checked="" type="checkbox"/> \$1,000,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise,
	<input type="checkbox"/> \$2,000,000

Contractor shall provide a Certificate of Insurance to the City listing the City as an additional insured. Such Certificate shall be in a form acceptable to the City.

**Sec. 8. Documentation Requirements:**

- A. Contractor shall provide the City with a **Certificate of Insurance** for review prior to the issuance of any contract or Purchase Order. All Certificates of Insurance will require written notice by the insurer or contractor's agent in the event of cancellation, reduction or other modifications of coverage by the insurer. Such notice shall be not less than 30 days for nonrenewal by the insurer, not less than 10 days for cancellation due to nonpayment of the premium and as soon as possible for all other types of modifications. In addition to the notice requirement above, Contractor shall provide the City with written notice of cancellation, reduction, or other modification of coverage of insurance whether instigated by the insurer or by the Contractor immediately upon Contractor's receipt of knowledge of such modifications. Upon failure of the Contractor to provide such notice, Contractor assumes sole responsibility for all losses incurred by the City for which insurance would have provided coverage. The insurance certificate shall be for the insured period in which the initial contract period begins and shall be renewed by the contractor for each subsequent renewal period of the insurance for so long as the contract remains in effect.

The City shall be named as an **additional insured** on all policies except Workers' Compensation and it is required that coverage be placed with "A" rated insurance companies acceptable to the City. Statement should read, "City of Concord is added as an additional insured as evidenced by an endorsement attached to this certificate." Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event that the contractor fails to maintain and keep in force the insurance herein required, the City has the right to cancel and terminate the Agreement without notice.

B. All those doing business with the City must have a current **Privilege License** issued by the City of Concord if a privilege license is authorized by law.

C. Contractor shall provide a completed W-9 form to the City prior to execution by the City of this Agreement.

#### **Sec. 9. Performance of Work by Contractor.**

(a) The Contractor warrants that all work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of 1 year from the date of issuance by the City of written final completion of the work.

(b) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to City - owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(d) The City shall notify the Contractor, in writing, within a reasonable time, not to exceed 30 days, after the discovery of any failure, defect, or damage.

(e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time, not to exceed 30 days unless otherwise agreed in writing and signed by the City Manager or his designee, after receipt of notice, the City shall have the right to replace repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice,
- (2) Require all warranties to be executed, in writing, for the benefit of the City, if directed to do so by the City; and
- (3) Enforce all warranties for the benefit of the City, if directed to do so by the City

(g) In the event the Contractor's warranty has expired, the City may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the City nor for the repair of any damage that results from any defect in City-furnished material or design.

**Sec. 10. Performance of Work by City.** If the Contractor fails to perform the Work in accordance with the schedule referred to in Exhibit "A", the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Contractor reasonable notice of its intention. The Contractor shall reimburse the City for all costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

**Sec. 11. Attachments.** Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties.

*The following attachments are made a part of this contract and incorporated herein by reference:*

- EXHIBIT A - BID FORM
- EXHIBIT B - Contractor must execute the Affidavit attached as Exhibit B, attesting to compliance with state and federal laws related to E-Verify.
- EXHIBIT C - TAX FORMS
- EXHIBIT D - CERTIFICATE OF INSURANCE
- EXHIBIT E - SPECIAL CONDITIONS
- EXHIBIT F - GENERAL CONDITIONS
- EXHIBIT G - PROJECT SPECIAL PROVISIONS
- EXHIBIT H - MINORITY BUSINESS FORMS
- EXHIBIT I - FEDERAL LABOR STANDARDS PROVISIONS FORM HUD-4010
- EXHIBIT J - WAGE DECISION

In case of conflict between an attachment and the text of this contract excluding the attachment, the text of this contract shall control. Any attachment that materially alters the standard terms contained herein must be reviewed by the City Attorney and approved by the City in writing.

**Sec. 12. Notice.** (a) All notices and other communications required or permitted by this contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:  
Sue Hyde, Director of Engineering  
City of Concord  
P.O. Box 308  
Concord, NC 28206

To the Contractor:  
Albert Benshoff, Esq.  
City Attorney  
PO Box 308  
Concord, NC 28026

(b) **Change of Address, Date Notice Deemed Given:** A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by US Mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the US Postal Service or upon actual delivery, whichever first occurs.

**Sec. 13. Indemnification.** To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless the City of Concord, its agents, officers, and employees, from and against all charges that arise in any manner from, in connection with, or out of this contract as a result of the acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable except for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Contractor shall at its sole expense defend the City of Concord, its agents, officers, and employees with legal counsel reasonably acceptable to City. As used in this subsection – “Charges” means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney’s fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.

**Sec. 14. Corporate Status.** If the Contractor is dissolved or suspended and the Contractor does not notify the City of such dissolution within three (3) business days from date of dissolution or suspension, and/or the corporate status is not reinstated within thirty (30) days, this contract, at the sole option of the City, shall be declared null and void or the Contractor shall execute a new contract showing the Contractor’s correct legal entity.

**Sec. 15. Miscellaneous.**

(a) **Choice of Law and Forum.** This contract shall be deemed made in Cabarrus County, North Carolina. This contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the appropriate division of the North Carolina General Court of Justice, in Cabarrus County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

(b) **Waiver.** No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) **Performance of Government Functions.** Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) **Severability.** If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

(e) **Assignment, Successors and Assigns.** Without the City’s written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out this contract. Unless the City otherwise agrees in writing, the Contractor and all assigns shall be subject to all of the City’s defenses and shall be liable for all of the Contractor’s duties that arise out of this contract and all of the City’s claims that arise out of this contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(f) **Compliance with Law.** In performing all of the Work, the Contractor shall comply with all applicable law.

(g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

(h) EEO Provisions. During the performance of this Contract the Contractor agrees as follows: (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Contractor in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

(i) No Third Party Right Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

(j) Principles of Interpretation. In this contract, unless the context requires otherwise the singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The word "person" includes natural persons, firms, companies associations, partnerships, trusts, corporations, governmental agencies and units, and any other legal entities.

(k) Modifications, Entire Agreement. A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or other duly authorized official signs it for the City. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

(l) Corporate Seal. If a corporate seal is included by any party to this Contract, it is only for authentication purposes. This Contract is not signed under seal.

**(The following section applies to construction contracts only if amount is over \$50,000)**

**Sec. 16. Bonding.** Both performance and payment bonds for the full amount of this Contract are required to be attached. Instead of bonds, you may submit a letter from your banker or stockbroker stating that cash, certified checks or government securities in the amount of this Contract will be submitted. The performance bond shall have a value equal to 100% of this Contract. This bond shall be conditioned upon faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond shall be solely for the protection of the City. The payment bond shall be in an amount equal to 100% of the Contract, and conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performance labor for which a contractor or subcontractor is liable.

**Sec. 17. Dispute Resolution.** It is understood and agreed that NCGS 143-128(f1-g) requires that disputes arising under an agreement for the erection, construction, alteration or repair of a building be subject to a dispute resolution process specified by the City. The amount in controversy shall be at least \$15,000.00 before this dispute resolution procedure may be used. In compliance with this statutory provision, the City specifies this Section as the dispute resolution process to be used on this Project. It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the Parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the City is under no obligation under any circumstance to secure or enforce the participation of any other Party in the mediation of any dispute subject to this Section and NCGS 143-128(f1-g).

**This Section 17 does not apply to:**

- (a) **The purchase and erection of prefabricated or relocatable buildings or portions of such buildings, except that portion of the work that must be performed at the construction site; or**
- (b) **The erection, construction alteration or repair of a building when the cost of such building is \$300,000 or less.**

17.1 Any dispute arising between or among the Parties listed in Section 17.3 that arises from an agreement to construct the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules (“Rules”), except as otherwise expressly set forth in this Section. To the extent any provision of the Rules is inconsistent with the provisions of this Section, the provisions of this Section shall control. The mediation provided in this Section shall be used pursuant to this Agreement and NCGS 143-128(F1-g) and is in lieu of any dispute resolution process adopted by the North Carolina State Building Commission, which process shall not apply to this Project.

17.2 For purposes of this Section the following definitions shall apply:

- a. *Agreement to construct the Project* means an agreement to construct the Project that is subject to the requirements of NCGS 143-128 and does not include any agreement related to the Project that is not subject to said statute.
- b. *Construct or construction* refers to and includes the erection, construction, alteration or repair of the Project.
- c. *Party or Parties* refers to the parties listed in Section 16.4.
- d. *Project* means the building to be erected, constructed, altered or repaired pursuant to this Agreement.

17.3 The City and any Party contracting with the City or with any first-tier or lower-tier subcontractor for the construction of the Project agree to participate in good faith in any mediation of a dispute subject to this Section and NCGS 143-128(f1-g), including without limitation the following Parties (if any): architect(s), engineer(s), surveyor(s), construction manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and supplier(s).

17.4 In order to facilitate compliance with NCGS 143-128(f1-g), the Contractor and all other Parties shall include this Section in every agreement to which it (any of them) is a Party for the construction of the Project without variation or exception. Failure to do so will constitute a breach of this Agreement, and the Contractor or other Party failing to include this Section in any agreement required by this Section shall indemnify and hold harmless the remaining Parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed that the Parties are intended to be and shall be third-party beneficiaries of the provisions of this Section and can enforce the provisions hereof.

17.5 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.

17.6 A dispute seeking the extension of any time limit set forth in an agreement to construct the Project shall be subject to mediation pursuant to this Section and NCGS 143-128(f1-g), but only if the damages which would be suffered by the Party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such Party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

17.7 For purposes of this Section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single Party or two or more Parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all Parties to such disputes.

17.8 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

17.9 Prior to requesting mediation, a Party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining Parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining Party, unless supported by such investigation and good faith belief by the Party requesting the mediation.

17.10 If a Party breaches any provision of Section 17.9, it shall indemnify and hold harmless all other Parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other Parties that arise from such breach.

17.11 All expenses incurred by a Party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the Party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the Party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the City is named as a party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties. If more than one Party to a dispute requests a mediation, the mediation expenses and costs to be divided among the Parties shall be borne equally by the Parties to the dispute; provided that, if the City is named as a Party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties.

17.12 The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Cabarrus County as the mediator shall determine.

17.13 The provisions of this Section are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Section.

17.14 The Parties understand and agree that mediation in accordance with this Section shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Section.

**Sec. 18. Breach.** In the event of a violation of any material term of this Agreement, the non-violating party may terminate the Agreement upon written notice. Such notice shall state the violation with specificity and shall give ten (10) days to cure the violation. The cure period shall be measured as ten (10) days from the date of receipt of notice by the violating party, or, if the date is not known, then thirteen (13) days from the date the notice is placed in the United States Post. If the violation remains uncorrected at the end of the cure period, the Agreement shall be terminated without any further action by the non-violating party. Any remaining disputes shall be subject to the dispute resolution procedure set forth above, if applicable.

IN WITNESS WHEREOF, the City of Concord and the Contractor have caused this contract to be executed by their respective duly authorized agents or officers.

CITY OF CONCORD:

(Typed or Printed Legal Name of Contractor)

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Signature of President/Vice President/Manager/Partner

ATTEST BY:  
  
\_\_\_\_\_  
City Clerk

Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
Signature of Vice President, Secretary, or other officer

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Attorney for the City of Concord

Printed Name: \_\_\_\_\_  
Title \_\_\_\_\_

SEAL

**APPROVAL BY CITY FINANCE OFFICER**

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

\_\_\_\_\_  
Signature

**EXHIBIT A - BID FORM**

PROJECT IDENTIFICATION:

**BID FOR CITY OF CONCORD HOUSING DEPARTMENT ADMINISTRATION BUILDING-  
ASBESTOS ABATEMENT #2011-048**

THIS BID IS SUBMITTED TO:

W. Brian Hiatt, City Manager  
c/o Sue Hyde, PE, City Engineer  
City of Concord  
850 Warren C. Coleman Blvd., P.O. Box 308  
Concord, North Carolina 28026-0308

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents within the specified time and for the amount indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2. Bidder accepts all of the terms and conditions of the Invitation to Bid and the Instructions to Bid, including without limitation those dealing with the disposition of the Bid security (if security is required by the City Manager). This Bid will remain subject to acceptance for 60 days after the day designated for reception of Bids. **Bidder will sign and submit the Agreement with the Bonds and other documents required by the Quoting Documents within 10 days after the date of Owner's Notice of Award.**

3. In submitting this Bid, Bidder represents that:

a. Bidder has examined copies of all the Quoting Documents and of the following Addenda (receipt of all which is hereby acknowledged):

No. \_\_\_\_\_ Dated \_\_\_\_\_

b. Bidder has visited the site and become familiar with and satisfied itself as to the general, local, and site conditions that may affect cost, progress, performance, and furnishing of the Work.

c. Bidder is familiar with and has satisfied itself as to all Federal, State, and Local Laws and Regulations that may affect cost, progress, performance, and furnishing of Work.

d. Bidder has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities) which have provided by the owner and under the conditions normally used and identified in the Supplementary Conditions and Special Conditions as provided in Paragraph 4.2.1 of the General Conditions. Bidder accepts the determination set forth in the Supplementary Conditions and Special Conditions of the extent of the "technical data" contained in such reports and drawings upon which Bidder is entitled to rely as provided in Paragraph 4.2 of the General Conditions. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Quoting Documents with respect to underground facilities at or contiguous to the site. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance and furnishing of the Work in accordance with the time, price, and other terms and conditions of the Contract Documents.

- e. Bidder is aware of the general nature of Work to be performed by Owner and others at the site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- f. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- g. Bidder has given Engineer written and verbal notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- h. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid Bidder has not solicited or induced any person, firm, or corporation to refrain from quoting; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

4. Bidder will complete the Work for the following unit prices. Quantities indicated are estimated and not guaranteed; they are solely for comparing Bids and establishing the initial Contract Price. Final payment will be based on actual quantities.

5. The fee for services shall not exceed the total estimated cost and shall be based on a time and material format, whereby fees would be invoiced by the amount of actual time/material expended. Should changes or extra services be needed, which will cause a cost overrun; \_\_\_Contractor will consult with the City for adjustments prior to conducting the work. The budget for the scope of services is based on the following estimates:

**EXHIBIT A – BID FORM**

**BID FOR CITY OF CONCORD HOUSING DEPARTMENT ADMINISTRATION BUILDING-  
ASBESTOS ABATEMENT #2011-048**

	<b>UNIT PRICE</b>	<b>TOTAL COST</b>	<b>EST DAYS</b>
MOBILIZATION & PERMIT FEES	\$ _____	\$ _____	
REMOVAL & DISPOSAL OF NON-ASBESTOS CONTAINING FLOOR COVERINGS (=732 FT2)	\$ _____	\$ _____	
ADD/DEDUCT UNIT COST FOR REMOVAL & DISPOSAL OF NON-ASBESTOS CONTAINING FLOOR COVERINGS	\$ _____	\$ _____	
ABATEMENT & DISPOSAL OF ASBESTOS CONTAINING MASTIC (=732 FT2)	\$ _____	\$ _____	
ADD/DEDUCT UNIT COST FOR ABATEMENT & DISPOSAL OF ASBESTOS CONTAINING MASTIC	\$ _____	\$ _____	

**ESTIMATED BASE COST** \$ \_\_\_\_\_

**+10% CONTINGENCY** \$ \_\_\_\_\_

**TOTAL ESTIMATED COST** \$ \_\_\_\_\_

---

5. Bidder agrees that all excavation is UNCLASSIFIED.

6. Bidder agrees that all work will be completed and ready for final payment in accordance with Paragraph 14.13 of the General Conditions within 60 days from the date of notice to proceed.

7. Communications concerning this Bid shall be sent to Bid at the following address:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

P.O. BOX: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_

ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_

8. The terms used in this BID, which are defined in the General Conditions, have the meanings assigned to them in the General Conditions.

SIGNATURE OF BIDDER: \_\_\_\_\_

Contractor's License Number \_\_\_\_\_

License Expiration Date \_\_\_\_\_

If an Individual

By \_\_\_\_\_  
(signature of individual)

doing business as \_\_\_\_\_

Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

If a Partnership

By \_\_\_\_\_  
(firm name)

\_\_\_\_\_  
(signature of general partner)

Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

If a Corporation

By \_\_\_\_\_  
(corporation name)

By \_\_\_\_\_  
(signature of authorized person) (title) \_\_\_\_\_

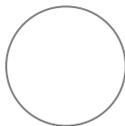
Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

(Seal)



If a Joint Venture (Other party must sign below.)

By (name) \_\_\_\_\_

Contractor's License Number \_\_\_\_\_

License Expiration Date \_\_\_\_\_

If an Individual

By \_\_\_\_\_  
(signature of individual)

doing business as \_\_\_\_\_

Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

If a Partnership

By \_\_\_\_\_  
(firm name)

\_\_\_\_\_  
(signature of general partner)

Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

If a Corporation

By \_\_\_\_\_  
(corporation name)

By \_\_\_\_\_  
(signature of authorized person)(title) \_\_\_\_\_

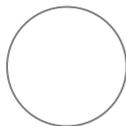
Business address \_\_\_\_\_

Phone No. \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

ATTEST \_\_\_\_\_ TITLE \_\_\_\_\_

(Seal)



**EXHIBIT B**

STATE OF NORTH CAROLINA

**AFFIDAVIT**

COUNTY OF CABARRUS

\*\*\*\*\*

I, \_\_\_\_\_ (the individual signing below), being duly authorized by and on behalf of \_\_\_\_\_ (the legal name of the entity entering the contract, "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a). Employer attests that Employer is in compliance with the requirements of the federal and state laws relevant to E-verify.
3. Employer is a person, business entity, or other organization that transacts business in the State of North Carolina. Employer employs 25 or more employees in this State. (mark Yes or No)
  - a. YES \_\_\_\_\_, or
  - b. NO \_\_\_\_\_.
4. Employer attests that all subcontractors employed by it as part of this contract comply with the requirements of E-Verify, and Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer as part of this contract.  
This \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Signature of Affiant  
Print or Type Name: \_\_\_\_\_

State of North Carolina County of Cabarrus

Signed and sworn to (or affirmed) before me, this the \_\_\_\_\_  
day of \_\_\_\_\_, 2013.

My Commission Expires:

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

(Affix Official/Notarial Seal)

**EXHIBIT C**

**TAX FORM(S)**

**[INSERT W-9 AFTER CONTRACT AWARD]**

**EXHIBIT D**

**CERTIFICATE OF INSURANCE**

**[INSERT AFTER CONTRACT AWARD]**

**EXHIBIT E**  
**SPECIAL CONDITIONS**  
**ASBESTOS ABATEMENT DESIGN SPECIFICATIONS**

# **ASBESTOS ABATEMENT DESIGN SPECIFICATIONS**

PROJECT

## **ABATEMENT OF ABESTOS CONTAINING MATERIALS**

**FLOOR TILE MASTIC (≈ 730 SQUARE FEET)  
CITY OF CONCORD HOUSING OFFICE  
283 HAROLD GOODMAN  
CIRCLE  
CONCORD, NORTH CAROLINA**

FOR

**CITY OF CONCORD  
POST OFFICE BOX 308  
CONCORD, NORTH CAROLINA 28026-0308**

BY

**ALLIED CONSULTING & ENVIRONMENTAL SERVICES, LLC  
POST OFFICE BOX 2426  
SHELBY, NORTH CAROLINA 28151  
704.600.6255 (office)  
704.482.5596 (fax)**

**ACES PROJECT No. 2013 – 07 – 056**

**ISSUE DATE: July 19, 2013**

# ASBESTOS ABATEMENT DESIGN SPECIFICATIONS

PROJECT

**ABATEMENT OF ACM  
FLOOR TILE MASTIC ( $\approx$  730 SQUARE FEET)  
CITY OF CONCORD HOUSING OFFICE  
283 HAROLD GOODMAN CIRCLE  
CONCORD, NORTH CAROLINA**

FOR

**CITY OF CONCORD  
POST OFFICE BOX 308  
CONCORD, NORTH CAROLINA 28026-0308**

BY

ALLIED CONSULTING & ENVIRONMENTAL SERVICES, LLC  
POST OFFICE BOX 2426  
SHELBY, NORTH CAROLINA 28151  
704.600.6255 (Office)  
704.482.5596 (Fax)

ACES PROJECT No. 2013 – 07 – 056

ISSUE DATE: JULY 19, 2013

PREPARED BY:



DeWitt Whitten, REM, CES, REPA  
General Manager  
NC Asbestos Project Designer #40459

REVIEWED BY:



Robert L. Smith, AIA, LEED AP  
Managing Partner

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## ASBESTOS ABATEMENT DESIGN SPECIFICATION

### PROJECT SUMMARY

Location: City of Concord Housing Office  
283 Harold Goodman Circle  
Concord, North Carolina

General Description: The scope of work shall include the removal of non-asbestos containing floor covering including ceramic tile, carpet, and vinyl floor tile. After the non-asbestos containing flooring materials have been removed, the asbestos containing mastic will be abated to allow for the installation of new flooring materials. It appears the asbestos containing mastic was associated with the original flooring materials and the exact extent of the mastic is not known, however, for the purposes of this design, a quantity of 730 square feet is assumed. Once the non-asbestos floor coverings have been removed, the exact extent and quantity of the asbestos containing mastic will be determined, and if necessary, adjust the abatement cost.

Removal of the asbestos containing materials included in this project shall be performed in accordance with all applicable federal, state, and local regulations and per the conditions set forth within these project removal guidelines. Information concerning previous material sampling, testing, material locations, and general conditions is presented as an attachment (Appendix 2) to the asbestos abatement design specification package.

This document is to provide criteria regarding asbestos removal activities conducted within the building. The abatement contractor shall follow the terms set forth in this specification during all phases of the asbestos abatement conducted on the grounds of the City of Concord Housing Office property.

Mandatory Pre-Bid Walk Through Meeting: **October 17,** 2013 (Project Site)

Bid Due Date: **October 29** , 2013

Bid and other required bid data due by 3 pm on the date to be determined. Submit bid package to:

Mr. Enrique Blat, PE  
City of Concord Engineering Department  
Alfred M. Brown Operations Center  
850 Warren C. Colman Boulevard  
Concord, North Carolina 28026

## **PART 1 – GENERAL REQUIREMENTS**

### **1.0 CODES AND REGULATIONS**

#### **A. REFERENCE SPECIFICATIONS**

The Contractor shall assume full responsibility and liability for compliance with all applicable federal, state, and local regulations pertaining to work practices, hauling, disposal, protection of workers, visitors to the site, and persons occupying areas adjacent to the project site.

Unless modified by this project specification, all specifications for stripping, removal, repair, and disposal work shall conform to the following specifications and standards, as applicable, as if completely reproduced herein.

1. The following regulations published by the Environmental Protection Agency (EPA):
  - a. “National Emissions Standards for Hazardous Air Pollutants Asbestos”, 40 CFR Part 61, Subpart A.
  - b. “General Provisions”, 40 CFR Part 61, Subpart A.
  - c. “Guidance for Controlling Asbestos-Containing Materials in Buildings”, June 1985 (EPA # 560/5-85-024).
  - d. “Asbestos-Containing Materials in Schools”, 40 CFR Part 762, Subpart E and Appendices.
2. The following regulations published by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA):
  - a. “Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Final Rules”, Title 29, Part 1910, Section 1001 and Part 1926, Section 1101 of the Code of Federal Regulations.
  - b. “Respiratory Protection”, Title 29, Part 1910, Section 134 of the Code of Federal Regulations.
  - c. “Construction Industry”, Title 29, Part 1926, Code of Federal Regulations.
  - d. “Access to Employee Exposure and Medical Records”, Title 29, Part 1910, Section 20 of the Code of Federal Regulations.
  - e. “Hazard Communication”, Title 29, Part 1926, Section 59 of the Code of Federal Regulations.
  - f. “Specifications for Accident Prevention Signs and Tags”, Title 29, Part 1910, Section 145 of the Federal Regulations.

3. The following regulations published by North Carolina state agencies:
  - a. North Carolina Asbestos Hazard Management Program Rules as adopted by 15 NCAC 19C .0600.
  - b. “North Carolina Occupational Safety and Health Standards for the Construction Industry”, 29 CFR Part 1926 as adopted by T13 NCAC 07F .0201 and Shipyard T13:07F .0500.
  - c. North Carolina General Statutes, Chapters 95, 97, and 130.
4. The following documents published by the American National Standards Institute:
  - a. “Fundamentals Governing the Design and Operation of Local Exhaust Systems”, Z9.2-2006.
  - b. “Standard for Respiratory Protection - Respiratory Use – Physical Qualifications for Personnel”, Z88.6-2006.
  - c. “Practices for Respiratory Protection”, Z88.2-1992

## B. DEFINITIONS

1. **Abatement** – Procedures used to control fiber release from ACBM using either asbestos removal, encapsulation, or enclosure.
2. **Asbestos Project Designer (APD)** – Allied Consulting and Environmental Services, LLC (ACES), Post Office Box 2426, Shelby, North Carolina 28151; Phone – 704.600.6255, Fax – 704.482.5596.
3. **ACBM** – Asbestos containing building materials.
4. **ACM** – Asbestos containing materials.
5. **Accessible** – Asbestos containing building material that is subject to disturbance by occupants or custodial or maintenance personnel in the course of their normal activities.
6. **ACGIH** – American Conference of Government Industrial Hygienists.
7. **Air Monitoring** – The process of measuring the approximate number of asbestos fibers in a specific volume of air in a stated period of time.
8. **Amended Water** – Water to which a surfactant has been added.
9. **Area Monitoring** – Sampling of airborne fiber levels within the asbestos control area and inside the physical boundaries which is representative of the airborne fiber levels but is not collected in the breathing zone of the personnel.
10. **APD** – Asbestos Project Designer, responsible for the preparation of the design document for the removal/abatement of the specified asbestos containing materials.
11. **Asbestos** – Asbestos includes but is not limited to the following minerals: actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite. Asbestos material means asbestos or any material containing asbestos such as asbestos waste, scraps, debris, containers, equipment, and asbestos contaminated clothing consigned for disposal.

12. **Asbestos Containing Waste Material** – any material which is or is suspected of being or any material contaminated with asbestos containing material which is to be removed or has been removed from a work area for disposal.
13. **Asbestos Fibers** – Airborne fibers having an aspect ratio of 3:1 longer than 5 micrometers when analyzed by the NIOSH 7400 Method.
14. **Building Owner** – Caldwell County School System
15. **Class I Asbestos Work** – Activities involving the removal of TSI and surfacing ACM and PACM.
16. **Class II Asbestos Work** – Activities involving the removal of ACM which is not TSI insulation or surfacing material. This includes, but is not limited to, the removal of asbestos containing wallboard, floor tile and sheetgood flooring, roofing, siding shingles, and construction mastics.
17. **Class III Asbestos Work** – Repair and maintenance operations where ACM, including TSI and surfacing ACM and PACM, is likely to be disturbed.
18. **Class IV Asbestos Work** – Maintenance and custodial activities during which employees may contact but do not disturb ACM or PACM and activities to clean-up dust, waste, and debris resulting from Class I, II, and III activities.
19. **Competent Person** – As used in this document, refers to a person employed by the contractor who is trained in the recognition and control of asbestos hazards in accordance with the current applicable federal, state, and local regulations.
20. **Contractor** – Refers to a North Carolina accredited and qualified asbestos abatement contractor.
21. **Control Area** – Designated rooms, spaces, or areas of the project in which asbestos abatement actions are to be undertaken or which may become contaminated as a result of such abatement actions. These areas have been sealed off from the outside, protected with 6 mil polyethylene sheeting, and are equipped with a decontamination enclosure system and reduced pressure system.
22. **Decontamination Area** – A series of connected rooms, with curtained doorways between any two adjacent rooms, for the decontamination of workers or materials and equipment. A decontamination enclosure system always contains at least one airlock.
23. **Decontamination Enclosure System** – A series of connected rooms, with curtained doorways between any two adjacent rooms, for the decontamination of workers or of materials and equipment. A decontamination enclosure system always contains at least one airlock.
24. **Disturbance** – Activities that disrupt or disturb the matrix of ACM or PACM, crumble or pulverize ACM, or generate visible debris from ACM or PACM. Disturbance includes cutting away small amounts of ACM or PACM, no greater than the amount that can be contained in one standard size glove bag or waste bag in order to access a building component. In no event shall the amount of ACM or PACM so disturbed exceed that

which can be contained in one glove bag or waste bag which shall not exceed 60 inches in length and width.

25. **Eight-Hour Time Weighted Average (TWA)** – Airborne concentration of asbestos to which an employee is exposed, averaged over an 8-hour workday as indicated in 29 CFR 1926.62.
26. **Encapsulation** – The coating of asbestos containing materials with a bonding agent, sealing agent (encapsulant), or elastomer bridging agent to prevent the release of asbestos fibers following abatement.
27. **Encapsulant** – A liquid material that can be applied to asbestos containing materials, which controls the possible release of asbestos fibers from the materials either by creating a membrane over the surface (bridging) or by penetrating into the material and binding its components (penetrating).
28. **Enclosure** – Refers to the area in which asbestos containing materials are encased within permanent impermeable, airtight barriers.
29. **EPA** – Environmental Protection Agency
30. **Excursion Limit** – Airborne asbestos concentration (1.0 fiber/cc) as averaged over a 30-minute period.
31. **Friable Asbestos Containing Material** – Material that contains greater than 1.0 percent asbestos that when dry can be crumbled, pulverized, or reduced to powder by hand pressure or is damaged by operations such as drilling, sanding, sawing, or abrading.
32. **Glovebag** – 6-mil polyethylene bag with latex gloves extending inside the work bag and having ports for water and vacuum attachments.
33. **HEPA Filter** – High Efficiency Particulate Air (HEPA) filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometer in diameter or larger.
34. **HEPA Vacuum** – Vacuum equipped with HEPA filters used to clean-up dust and debris in work areas.
35. **HVAC** – Heating, ventilation, and air-conditioning
36. **NC HHCU** – The North Carolina Health Hazards Control Unit.
37. **Masking and Sealing Operations** – Procedures used to cover and protect floors, walls, and fixed objects as appropriate with 6 mil polyethylene plastic sheets during an asbestos abatement project.
38. **NIOSH** – National Institute for Occupational Safety and Health.
39. **OSHA** – Occupational Safety and Health Association.
40. **PACM** – Presumed asbestos containing materials.
41. **Permissible Exposure Limit (PEL)** – The PEL for asbestos is 0.1 asbestos fibers per cubic centimeter (f/cc) of air as an 8-hour time weighted average as determined by 29 CFR 1926.62. If an employee is exposed for more than eight hours in a work day, the PEL shall be determined by the following formula:  $PEL (f/cc) = C_1 \times T_1 + C_2 \times T_2 + \dots + C_n \times T_n / 8$  where  $C_x$  = airborne asbestos concentration collected over time period  $T_x$

42. **Personnel Monitoring** – Sampling of the breathing zone of contractor personnel in accordance with 29 CFR 1926.1101 and appendices.
43. **Post-Removal Cleaning** – Refers to final cleaning of the control area following all asbestos removal using a combination of HEPA vacuuming and wet wiping.
44. **Pre-Cleaning** – Refers to the cleaning of fixed and movable items of equipment and material within the control area by the Contractor before set-up of the control area.
45. **Presumed Asbestos Containing Materials** – thermal system insulation and/or surfacing material found in buildings constructed no later than 1980. The designation of a material as “PACM” may be rebutted pursuant to paragraph (k)(5) of 29 CFR 1926.1101.
46. **Project Site** – the Gamewell Middle School campus
47. **Removal** – All specified procedures necessary to remove asbestos containing materials from an area and dispose of the materials at an authorized site in accordance with regulatory requirements of NESHAPS and applicable state and local guidelines.
48. **Renovation** – Altering, removing, or stripping of one or more facility components, including, but not limited to the stripping or removal of asbestos containing materials from facility components, retrofitting for fire protection, the installation or removal of heating, ventilation, and air conditioning (HVAC) system.
49. **Repair** – Returning damaged ACBM to an undamaged condition or to an intact state so as to prevent a fiber release using encapsulation, sealing, enclosure, or encasement.
50. **Respirator (Negative Pressure)** – A respirator in which the air pressure inside the respiratory-inlet covering is positive during exhalation in relation to the air pressure of the outside atmosphere and negative during inhalation in relation to the air pressure of the outside atmosphere.
51. **Respiratory Protection** – Protecting the employee, through the wearing of a respirator, from breathing airborne asbestos fibers.
52. **Testing Laboratory** – The term “testing laboratory” is defined as an independent entity engaged to perform specific inspections or air monitoring analysis of the work, either at the project site or elsewhere; and to report the results of those inspections and/or tests.
53. **TSI** – Thermal system insulation
54. **VAFT** – Vinyl asbestos floor tile
55. **Work Area** – The area where asbestos related work or removal operations are performed which is defined and/or isolated to prevent the spread of asbestos dust, fibers, debris, and to prevent entry by unauthorized personnel. The work area is a regulated area as defined by 29 CFR 1926.
56. **Work Site** – The work site consists of three areas at the Gamewell Middle School as defined and designated in the Project Specification.

## 2.0 PROJECT COORDINATION

### A. GENERAL

1. The asbestos abatement contractor (Contractor) will be a licensed general contractor in either the specialty interior, building, unclassified, or asbestos categories by the North Carolina Licensing Board of General Contractors and limited for the bid amount.
2. The Contractor shall be responsible for visiting the site, prior to bidding, to confirm the scope of the work. Any quantities listed by the asbestos project designer (APD) in the plans, specifications, or surveys are done so as approximations. The Contractor has the responsibility for determining actual quantities of the materials to be removed/abated. No additional contract price adjustments will be allowed due to variances between actual quantities and the estimated quantities listed herein. Should additional ACM be discovered during abatement activities, which was not previously identified, the contractor shall immediately notify the Building Owner and the APD.
3. The Contractor shall furnish and is responsible for all costs including but not limited to: permit fees, containment preparation, labor, materials, services, insurance, bonding, and equipment necessary to perform and complete the asbestos abatement/removal and disposal of all asbestos containing materials in accordance with the plans and specifications, applicable EPA and OSHA regulations, and any applicable state and local government regulations.
4. The Contractor has and assumes the responsibility of proceeding in such a manner that he offers his employees and others a workplace free of recognized hazards causing or likely to cause death or serious injury. The Contractor shall be responsible for performing this abatement and disposal so that airborne asbestos fibers levels do not exceed established protective levels.
5. The Contractor will be responsible for all costs, including additional visits and analytical fees, should the Building Owner's air monitoring firm determines that the Contractor failed a visual and/or final air clearance inspection. Notification and scheduling of inspections during the project is the responsibility of the Contractor. The Contractor will allow a minimum notice of 48 hours prior to final visual assessment and air clearance sampling unless the Building Owner's air monitoring firm, Contractor, and the Building Owner agree upon a different time frame.

representative, the Contractor shall immediately remove them from the project site.

- b. The contractor shall be responsible for compliance with the following behavior:
  - (i) Under no circumstances will alcohol, drugs, firearms, tobacco, tobacco products or any other type of controlled substances be permitted on the project site.
  - (ii) All workers are restricted to the area of asbestos abatement work.
  - (iii) All vehicles must be parked in the area designated by the Building Owner.
  - (iv) All workers must conform to the following basic dress code when in the public area of the work site: long pants and shirts with sleeves, i.e., no tank tops, no shorts, etc.
  - (v) The Contractor is responsible for disposal of all materials brought to the project site/work site by his employees including drink cans, bottles, wrappers, or other food containers.
- c. Failure to adhere to these rules could result in criminal or civil prosecution and/or removal from the project site.

## C. MEETINGS

### 1. Pre-Bid Meeting

A mandatory pre-bid meeting will be held at 10 am on **October 17, 2013** at the building located at 283 Colman Boulevard. All interested contractors will be notified of the pre-bid date at least five calendar days prior to the pre-bid meeting date. Contractors desiring to submit a bid must attend the pre-bid meeting, visit the work site, confirm quantities, site access issues, etc. Questions regarding the pre-bid meeting and the project design must be submitted to the APD not later than 12 pm (noon) on a date to be determined.

### 2. Periodic Project Meetings

The Building Owner and/or project manager reserves the right to schedule meetings with a representative of the abatement contractor during the course of the project to discuss project activities, scheduling, etc.

## B. PERSONNEL

### 1. Supervisor

- a. All supervisors shall be currently accredited by the NC HHCU for asbestos abatement.
- b. All supervisors on the project shall have a minimum of two years experience in the administration and supervision of asbestos abatement projects including work practices, protective measures for building and personnel, disposal procedures, etc.
- c. One supervisor shall be provided for every ten (10) workers at the project site during work hours. A minimum of one supervisor shall be present at the project site during all work hours.
- d. The Contractor shall have at least one employee on the job, per shift, in either a foreman or supervisor's position, who is bilingual in the appropriate languages when employing workers who do not speak fluent English.
- e. A minimum of one accredited supervisor per company shall have attended a 24-hour respiratory protection course and provide appropriate documentation of such.

### 2. Worker

- a. All workers shall be currently accredited as such by the NC HHCU.

### 3. Competent Person

- a. A competent person, as defined in the OSHA Asbestos Standard, 29 CFR 1926.1101, employed by the Contractor must be outside the work area at all times to monitor activity, ensure containment security, provide information to visitors, and provide access for authorized persons to the work area.

### 4. Employees

- a. The Contractor is responsible for the behavior of workers within his employment. If at any time during the contracted work, or any of the Contractor's employees are judged to exhibit behavior unfitting for the area or judged to be a nuisance by the Building Owner or the Building Owner's

D. SUBMITTALS

1. With Bid Documents

- A. Bidders must demonstrate experience on asbestos abatement projects by the submission of a list of three (3) previous asbestos abatement removal projects; names, addresses, and phone numbers of clients; location of projects; and dates projects were performed.
- B. An officer of the company must sign a statement containing the following information:
  - (i) Record of any citations issued by Federal, State, or Local regulatory agencies relating to asbestos abatement activity. Projects, dates, and resolutions must be included.
  - (ii) Situations in which an asbestos-related contract has been terminated including projects, dates, and reason(s) for termination.
  - (iii) Listing of any asbestos-related legal proceedings/claims in which the contractor (or employees scheduled to participate) are currently involved. Include descriptions of role, issue, and resolution to date.
- C. Bidders shall provide evidence of insurance.
- D. Bidders shall provide proposed detailed schedule of work.
- E. Performance and Payment Bonds may be required for this project. Bidders shall provide documentation that they will be able to provide bonds if selected.

2. Upon Award of Contract

The successful contractor will submit two complete, bound sets of pre-job submittals within five days of the award of the contract for review and approval by the Building Owner and APD. A copy of the submittals shall also be kept in a three-ring binder as part of the project log by the Contractor at the work site in a clean room or on-site office of the contractor. The submittals will contain, at a minimum, the following information:

- A. A summary of the company's training program and/or a list of EPA approved training certification courses that the company's employees have attended.

- B. A summary of the company's written respiratory protection program which is in compliance with OSHA regulations and other applicable state or local regulations.
  - C. Statement indicating the company has an established medical surveillance program in compliance with 29 CFR 1926.1101. The statement should also include documentation that all personnel participate in the medical surveillance program.
  - D. A copy of the Asbestos Permit Application and Notification for Demolition/Renovation (NC DENR Form 3768) submitted to the NC HHCUC and any other required agency. The contractor will provide notification to the Building Owner and APD at the time the Form 3768 is submitted to the NC HHCUC. The Contractor will also notify local fire and police departments and other local agencies as applicable or required. Upon receipt of the approved permit, the Contractor shall provide a copy of the approved permit to the Building Owner and APD. The actual permit will be posted outside the decontamination unit at the work site.
  - E. Provide documentation for of all employees that will be involved in the abatement/removal activities at the work site. The documentation should include the name of each individual, their position, their accreditation, social security number, and copy of the most recent certificate.
  - F. Documentation signed by each worker acknowledging their participation in the company's employee medical surveillance program.
  - G. Documentation for each worker reflecting their most recent fit test records and completion date of most recent respiratory protection program.
  - H. Copy of most recent Initial Exposure Assessment as required by the OSHA Construction Asbestos Standard, 29 CFR 1926.
  - I. Name, location, and applicable permit of asbestos waste disposal site. A contact name and phone number for the facility shall also be provided.
  - J. Manufacturer's technical data sheets, certificates of compliance, MSDS sheets, and additional information as appropriate for all equipment and materials to be utilized during the abatement/removal project.
  - K. Proposed location of decontamination unit.
  - L. Proposed project schedule including anticipated start date, set-up time, anticipated dates of work, number of shifts per day, anticipated completion date, etc.
  - M. Copy of Emergency Contingency Plan. The contractor shall prepare a Contingency Plan to address emergencies that may include fire, accident,
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hazardous material release, power failure, negative pressure system failure, supplied air system failure, evacuation of injured person(s) for both life threatening and non-life threatening injuries, or any other event that may require modification or abridgement of the decontamination/isolation procedures. The Contingency Plan shall list phone numbers and locations of local emergency services including but not limited to: fire, ambulance, doctor, hospital, police, power company, and natural gas company. The Contingency Plan will be posted inside and outside the work area during all work shifts and be readily available to all personnel.

- N. Provide Certificates of Insurance with the Building Owner and APD listed as an additional party.
- O. If required, the Contractor shall furnish a Performance Bond and Payment Bond in accordance with guidelines that will be provided by the client.

### 3. Post-Job

Upon completion of the scope of work, the Contractor shall submit two complete, bound sets of post-job submittals to the APD. Request for final payment will not be approved until the post-job submittal package has been reviewed and approved by the Building Owner and the Building Owner's representative. The post-job submittal should include at a minimum:

- A. Affidavits: Provide Contractor's affidavit of payment of debts and claims, affidavit of release of liens, and consent of the surety company to final payment.
- B. Manifest: Provide North Carolina Asbestos Waste Shipment Record (NCDENR 3787) receipt from asbestos waste disposal site which acknowledges the Contractor's delivery(s) of waste material. Include date, name of waste transporter, quantity of material delivered, and signature of authorized representative of disposal site.
- C. Daily Logs: Submit copies of all daily logs showing the following: name of all persons entering the work site, date, entering and leaving time, company or agency represented, reason for entering, employee's daily air monitoring data as required by the OSHA Standard, written comments by inspectors, APD, or other persons.

### 3.0 GENERAL PROVISIONS

#### A. GENERAL

1. By submitting a bid on this project, the Contractor acknowledges that the work site has been visited and the Contractor is satisfied as to (1) the conditions affecting the work, including (but not limited to) the physical conditions of the work site which may bear upon site access, handling and storage of tools and materials, access to water, electric or other utilities or otherwise that may affect performance of the required activities; (2) the character and quantity of all surface and subsurface materials or obstacles to be encountered in so far as this information is reasonably ascertainable from a visit to the work site, including exploratory work done by the Building Owner, the APD, as well as, information presented in the project Specification. Any failure of the Contractor to become acquainted with available information shall not relieve the Contractor from the responsibility for estimating properly the difficulty or cost of successfully performing the work. The Building Owner and the APD for this project are not responsible for any conclusions or interpretations made by the Contractor on the basis of the information presented in the Project Specification.
2. Should a Contractor find discrepancies in the plans and/or project specification or should Contractor be in doubt as to the meaning or intent of any part thereof, the Contractor must, prior to the bid request, request in writing clarification from the Building Owner and/or the APD. Discrepancies with regard to conflicts between the project specification and applicable federal, state, or local regulations or requirements shall be included herein. Failure to request such clarification is a waiver to any claim by the Contractor for expense made necessary by reason of later interpretation of the project specification by the Building Owner and/or the APD.
3. Explanations desired by a prospective Contractor regarding the project specifications may be requested in writing from the Building Owner's representative/APD not later than 12 pm (noon) on **October 25, 2013**. The Building Owner's representative can be contacted at:

[dewitt@aces-env.com](mailto:dewitt@aces-env.com)

- D. Medical: Provide copies of worker release forms.
- E. Special Reports: All documents generated under Section 2.0, Paragraph D, Sub-paragraph 3.

4. Special Reports

- A. General: Except as otherwise indicated, submit special reports to the APD within one day of occurrence. One copy should also be placed in the project logbook.
- B. Unusual Events: When an event of unusual and significant nature occurs (i.e. failure of negative pressure system, rupture of temporary enclosure, etc.) at the work site, Contractor shall prepare and submit a special report to the APD within 3 hours of the occurrence. The report shall list chain of events, persons involved, response by Contractor's personnel, evaluation of results or effects, and any other pertinent information.
- C. Accidents: Prepare and submit reports of significant accidents at the work site to the APD within 8 hours after occurrence. Reports should include date, person(s) involved, apparent cause, response, and if needed, actions take to prevent further such accidents. For the purposes of this specification, a significant accident is defined to include events where personal injury is sustained, property loss occurs, or where an event posed a significant threat of personal injury or property loss.

4. Liquidated Damages: Should the Contractor fail to substantially complete the scope of work on or before the date stipulated for Substantial Completion, or failure of the Contractor to complete all remedial work, correct deficient work, clean-up of work site, and/or other miscellaneous tasks as required to complete all work specified, or such later date as may result from an extension of time granted by the Building Owner, the Contractor shall pay the Building Owner, as liquidated damages, the sum of One hundred dollars (\$100.00) for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the project specification and contract with the Building Owner, which sum is agreed upon as a reasonable and proper measure of damages which the Building Owner will sustain per day by failure of the Contractor to complete the scope of work within the time as stipulated; it being recognized by the Building Owner and the Contractor that the damage to the Building Owner which could result from the failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor. The amount of liquidated damages set forth as described previously shall be assessed cumulatively. This provision for liquidated damages does not bar the Building Owner's right to enforce other rights and remedies against the Contractor, including but not limited to, specific performance or injunctive relief.

## 4.0 INSURANCE REQUIREMENTS

### A. GENERAL

1. The Contractor shall purchase and maintain in force, at their own expense, such insurance, satisfactory to the Building Owner, that will protect the Building Owner and the Contractor from claims set forth below which may arise out of or result from the Contractor's execution of the work, whether such execution be by himself, his employees, agents, subcontractors, or by anyone for whose acts any of them may be liable. The insurance coverage shall be such as to fully protect the Building Owner and the APD for this project, and the general public from any and all claims for injury and damage resulting from any actions on the part of the Contractor or his forces as enumerated above. The Contractor shall furnish a copy of an original certificate of insurance, naming the Building Owner as an additional insured party. Should any of the policies be cancelled, the issuing company will mail a written notice to the certificate holder 30 days prior to the cancellation. The Contractor shall submit copies of this insurance on proper forms from companies acceptable to the Building Owner. The additional insured shall be listed as:
2. Workman's Compensation and Employer's Liability: The Contractor shall carry Workman's Compensation Insurance with statutory limits and Employers' Liability Insurance of \$500,000 for one accident or aggregate disease.
3. Automobile Liability, including Owned, Non-owned, and Hired Car Coverage: The Contractor will have the following limits of liability (at a minimum):

Bodily Injury	\$1,000,000 each person \$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Or	
Single Limit: Bodily Injury/Property Damage \$2,000,000 each occurrence	
4. Comprehensive General Liability: The Contractor will have the following limits of liability (at a minimum)

Bodily Injury	\$1,000,000 each person \$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Or	
Single Limit: Bodily Injury/Property Damage \$2,000,000 each occurrence	

Including: Completed Operations/Products  
Contractual Liability for Specified Agreement  
Personal Injury  
(XCU) Explosion, Collapse, and Underground Coverage  
Broad Form Property Damage

5. General Notes and Conditions:

- a. The Contractor and his insurance company should carefully review the insurance requirements applicable to this project. All requirements must be met before the Building Owner will execute the contract.
- b. The insurance certificate must state that the Comprehensive General Liability Insurance names the Building Owner as an additional insured party.
- c. Contractual Liability covers the following indemnity agreement: "The Contractor shall indemnify and hold harmless the Building Owner and the APD for this project against and from all liability, claims, damages, and costs, including attorney's fees of every kind and nature and attributable to bodily injury, sickness, disease or death, or to damage or destruction of property resulting from or in any manner arising out of or in connection with the project and the performance of the work under this contract."
- d. Property Insurance: The Contractor shall purchase and maintain property insurance during the entire work period at the work site and such materials and equipment as are stored at the work site or at an agreed upon location to the full insurable value thereof. This insurance shall include the interests of the Building Owner, the Contractor, subcontractors, and sub-subcontractors in the work and shall insure against the perils of fire and extended coverage, and shall include "all risk" insurance for physical loss and/or damage including theft, vandalism, and malicious mischief.
- e. The intent of this specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Comprehensive Automobile Liability and Comprehensive General Liability, the total amount of coverage can be accomplished through any combination of primary and excess umbrella insurance and self-insured reserves. The Contractor shall submit evidence of self-insurance to the Building Owner for review and approval in addition to the required certificate of insurance. Such evidence shall consist of, at a minimum, current financial statements

that clearly indicates the reserves committed to the Contractor's self-insurance program. The Contractor shall for the duration of the project maintain the self-insurance reserves at a level not less than that which is stated by the Contractor at the time that the contract is executed. However, the total insurance protection provided for comprehensive General Liability protection or for Comprehensive Automobile Liability protection, either individually or in a combination with the Excess Liability Umbrella must total \$2,000,000 per occurrence.

- f. Repair or Replacement Endorsement: It is understood and agreed subject to all the terms, conditions, and stipulations of the contract and project specifications to which this endorsement is attached, not in conflict herewith, that in case of loss or damage to any property owned by the Building Owner being held or stored in the care, custody, and control of the Contractor or Suppliers, the Contractor shall be liable through an "All Risk" property policy or, in the event the policy cannot respond in full, self-insurance for any and all expenditures incurred to replace, repair, or rebuild the damaged or destroyed property to the equivalent size, kind, and quality that existed prior to the loss.
- g. Insurance policies of this nature routinely prohibit recovery for incidents involving toxic substances. The Contractor must be able to document that he has notified his insurance carrier of the nature of his work involvement with asbestos and that the coverage in effect specifically includes an endorsement for asbestos abatement activities.
- h. The contractor must provide documentation that this coverage is classified as an occurrence-based policy.

## 5.0 TEMPORARY FACILITIES

### A. GENERAL

1. The Contractor shall provide temporary connection to existing building utilities or provide temporary facilities as required herein or as necessary to carry out the work.
2. The Contractor shall use qualified tradesmen for installation of temporary services and facilities. Locate, modify, and extend temporary services and facilities where they serve the project adequately and result in minimum interference with the performance of the work.

### B. WATER SERVICE

1. The Building Owner will supply a source of water at the work site. The Contractor bears all expense of heating and getting water to the work site areas and decontamination locations. The Contractor shall be responsible for ensuring that the waterline(s) that they are using are properly maintained and protected and do not leak or break. Any resulting damage to the building or items within the building from water damage shall be replaced or repaired at the Contractor's expense to the Building Owner's satisfaction.
2. Supply hot and cold water to the decontamination unit(s) in accordance with Section 10.0. Hot water shall be supplied at a minimum temperature of 100° Fahrenheit (F) and a maximum temperature of 110° F.
3. After completion of use, connections and fittings shall be removed without damage or alteration to existing water piping and equipment.

### C. ELECTRICAL SERVICE

1. The Building Owner will supply a source of electricity at the work site. The Contractor bears all expense of providing electricity to the work site areas and decontamination locations.
2. The Contractor will comply with all applicable NEMA, NEC, and UL standards and governing state and local regulations for materials and layout of temporary electrical service.

3. The Contractor will provide receptacle outlets equipped with ground fault circuit interrupters, reset button, and pilot light for plug-in connections of power tools and equipment.
4. The Contractor will provide a weatherproof, grounded temporary electric power service and distribution system of sufficient size, capacity, and power characteristics to accommodate performance of work during the abatement/removal period.
5. Install temporary lighting adequate to provide sufficient illumination for safe work and traffic conditions in every work area.
6. The contractor will provide the services of an electrician, on a standby basis, to service electrical needs during the abatement process.
7. The contractor will provide an additional power service and distribution service, consisting of individual dedicated 15 amp, 120 volt circuits to electrical drops with receptacle outlets equipped with ground fault interrupt protection, color coded for the exclusive use of the air monitoring firm.

D. FIRST AID

1. A minimum of one first aid kit shall be located in the clean room of the decontamination unit. Additional first aid kits, as the Contractor feels is adequate or is required by law, shall be located throughout the work area.

E. FIRE EXTINGUISHERS

1. The Contractor shall comply with the applicable recommendations of NFPA Standard 10 – “Standard for Portable Fire Extinguishers”. Locate fire extinguishers where they are most convenient and effective for their intended purpose but provide not less than one extinguisher in each work area or floor level.

F. TOILET FACILITIES

1. The Contractor shall provide temporary toilet facilities to be used by the Contractor’s employees.

G. PARKING

1. The Contractor’s employees will park only in areas designated by the Building Owner.

H. SITE SECURITY

1. The Contractor is responsible for maintaining security in the work areas at all times during work hours at the work site. The Contractor is responsible for securing the work areas at the end of the work day.

I. STORAGE

1. The Contractor shall supply temporary storage for all equipment and materials for the duration of the project. Storage facilities and dumpster(s) will be maintained in areas designated by the Building Owner.

J. HEATING/COOLING

1. The Contractor shall provide adequate heating and cooling in the work areas of the building to perform his work as appropriate.

## 6.0 NEGATIVE PRESSURE SYSTEM

### A. GENERAL

1. The Contractor will provide high-efficiency particulate air (HEPA) filter exhaust systems equipped with new HEPA filters for the project. Exhaust equipment and systems shall comply with ANSI Z9.2-79 and used according to the manufacturer's recommendations.
2. A system of HEPA-equipped air filtration devices shall be configured so that a pressure differential is established between the work area and the surrounding area (-0.02" to -0.04" water column). A continuous chart-recorded manometer shall be used to confirm this condition. The Contractor shall provide a manometer or magnehelic-type negative pressure differential monitor with minor scale divisions of 0.005 inches of water and accuracy within plus or minus one percent. The manometer will be calibrated daily as recommended by the manufacturer.
3. The Contractor will provide additional air filtration devices inside the work areas for emergency standby as well as for circulation of dead air space.
4. The pressure differential will be maintained at all times after preparation is complete and until the final visual inspection and clearance air tests confirm the area is clean and acceptable for re-occupancy and the designer confirms verbally with written follow-up to discontinue the use of the negative pressure system.
5. Air shall be exhausted outside the building and away from the decontamination chamber if at all feasible. Any variations must be approved by the NC HHCUC.
6. The Contractor shall check daily for leaks and document his checks in the bound logbook.
7. There shall be a minimum of four air changes per hour in any air containment area.
8. The Contractor shall change the pre-filters, secondary filters, and the HEPA filters as necessary to ensure negative pressure is maintained throughout the duration of the project.
9. The Contractor will install observation windows where feasible. The Contractor will work with the Building Owner's Air Monitor to determine feasibility and location. The observation windows will be provide a minimum of one square foot of visible area using a plexi-glass type material.

## **7.0 WORK AREA PREPARATION**

### **A. GENERAL**

1. Before work begins at the work site, a decontamination unit must be in operation as outlined in Section 10.0
2. Completely isolate the work area from the other parts of the building so as to prevent contamination beyond the isolated area.
3. The Contractor shall set-up a work area, load out, and decontamination facility at the locations shown in the approved asbestos abatement design specification. Any variations must be approved by the Building Owner. The decontamination facility outside the work area shall consist of a change room, shower room, and equipment room, at a minimum, as described in Section 10.0
4. The Contractor shall wet clean and/or HEPA vacuum all items and equipment in the work area suspected of being contaminated with asbestos but not in direct contact with the asbestos material to be removed and either secure these items in place with two layers of polyethylene sheeting, air tight, or have them removed from the work area.
5. Critical Barriers: The Contractor shall thoroughly seal the work area for the duration of the project by completely sealing off all individual openings and fixtures in the work area, including but limited to, heating and ventilation ducts, doorways, corridors, windows, skylights, and lighting with two layers polyethylene sheeting taped securely in place. If the Contractor is using sealant materials to fill in small holes or cracks, the material shall have appropriate fire ratings. Protection for any non-moveable fixtures that may be on the walls, floors, or ceilings that are not part of the work shall be protected by appropriate means.
6. Walls: Apply two or more layers of 3 mil (minimum) polyethylene plastic sheeting (or equivalent thickness) with joints overlapped 24 inches and taped securely. Plastic sheeting shall be extended to at least five (5) feet above the floor and should be taped securely along the top and bottom of the sheeting.
7. Polyethylene sheeting on floors and walls shall be installed in such a manner that they may be removed independently of the critical barriers.

8. Entrances and exits from a work area will have triple barriers of polyethylene plastic sheeting in a z-configuration so that the work area is always closed off by one barrier when workers enter or exit the work area. The containment exits shall be adequately labeled and emergency evacuation routes shall be demarcated.
9. No ACM or water may be left on the floor at the end of the workday.
10. Floor surfaces, walls, finishes, or coverings, etc. that in the Contractor's opinion will be damaged by water or that may become contaminated with asbestos shall have additional protective preparation as the Contractor sees appropriate, at his cost, to protect the original condition of the surfaces.
11. Any costs associated with physical damage caused by water or securing polyethylene sheeting to areas inside or outside the abatement area shall be the Contractor's responsibility.
12. Provide caution signs at all approaches to asbestos-control areas containing concentrations of airborne asbestos fibers. Locate signs at such distance that personnel may read the signage and take the necessary protective steps required before entering the area. All signs will conform to 29 CFR 1926.1101 and 29 CFR 1926.62 requirements.
13. A negative pressure system shall be addressed as outlined in Section 6.0.
14. After work area preparation, the Contractor shall notify the Building Owner and the Building Owner's air monitoring firm with written follow-up that the Contractor is ready for a pre-work inspection.

## **8.0 WORKER PROTECTION**

### **A. GENERAL**

1. The Contractor shall provide worker protection as required by OSHA, state, and local standards applicable to the work being performed. The Contractor is solely responsible for enforcing worker protection requirements at least equal to those specified in this Section.
2. Each time the work area is entered, the Contractor shall require all persons to remove street clothes in the changing room of the personnel decontamination unit and put on new disposable coveralls, new head cover, and a clean respirator. Proceed through shower room to equipment room and put on work boots.
3. Workers shall not eat, drink, smoke, chew gum, apply cosmetics, or chew tobacco in the work area, the equipment room, the load out area, or the clean room.

### **B. WORKER TRAINING**

1. The Contractor will have his workers trained in accordance with 29 CFR 1926 and applicable North Carolina regulations regarding the dangers inherent in handling, breathing asbestos fibers, proper work procedures, and personal and area protective measures.

### **C. MEDICAL EXAMINATIONS**

1. The Contractor will provide medical examinations for all his workers. The medical examinations shall, at a minimum, meet the OSHA requirements as set forth in 29 CFR 1926.

### **D. PROTECTIVE CLOTHING**

1. The Contractor will provide disposable full-body coveralls and disposable head covers and require that all workers in the work area wear them. Provide a sufficient number for all required changes for all workers in the work area. Cloth work clothing may be worn underneath disposable protective clothing. However, this clothing is to remain inside the work area and be disposed of as asbestos contaminated waste.
2. Boots: The Contractor will provide work boots with non-skid soles, and where required by OSHA, additional foot protection for all workers. All boots/footwear

worn within the control area will be considered as asbestos contaminated material and may not be worn outside the control area.

3. Gloves: The Contractor will provide suitable work gloves to all workers and require that they be worn at the appropriate times. The work gloves are not to be removed from the work area and shall be disposed of as asbestos containing waste at the completion of the work.
4. The Contractor shall provide eye and ear protection as appropriate.

#### E. ADDITIONAL PROTECTIVE EQUIPMENT

1. The Contractor will provide the appropriate respirators or respirator system to ensure adequate respiratory protection, disposable coveralls, head covers, gloves, and footwear covers for the Building Owner, the Building Owner's representative, the Building Owner's air monitoring firm, or other authorized representatives who may inspect the work site at no cost to the Building Owner. The personal protective equipment provided by the Contractor shall remain the property of the Contractor.

#### F. DECONTAMINATION PROCEDURES

1. The Contractor will require that all workers use the following decontamination procedures as a minimum requirement whenever leaving the work area.
  - a. Remove disposable coveralls, disposable head covers, and disposable footwear covers or boots in the equipment room.
  - b. With respirator in-place, proceed to showers. Showering is mandatory. Care should be taken to follow reasonable procedures in removing the respirator to avoid asbestos fibers while showering. The following procedure is a minimum:
    - Thoroughly wet body including hair and face
    - With respirator still in place thoroughly wash body, hair, respirator face piece, and all exterior parts of the respirator
    - Take a deep breath, hold it and/or exhale slowly, completely wet hair, face, and respirator. While still holding breath, remove respirator and hold it away from face before starting to breathe.
    - Carefully wash face piece of respirator inside and out
    - Shower completely with soap and water, rinse thoroughly
    - Rinse shower room walls and floor prior to exit
    - Proceed from shower to changing (clean) room and change into street clothes or new disposable work items

- c. After showering, each employee shall inspect, clean and repair his respirator as needed. The respirator shall be dried, placed in a suitable storage bag and properly stored.
- d. Proceed to clean room, dry off, and dress in street clothes.

## **9.0 RESPIRATORY PROTECTION**

### **A. GENERAL**

1. All respiratory protection programs shall be established in accordance with the respiratory protection requirements of 29 CFR 1910.134 and 29 CFR 1926.1101. These regulations shall be considered a requirement of these specifications. The following sub-sections provide for the establishment of standard protection program, but do not relieve the Contractor from the implementation or enforcement of a respiratory protection program.
2. The Contractor shall designate an administrator for their respiratory program. The administrator shall be responsible for the implementation and enforcement of the provisions and procedures set forth in the respiratory protection program. The Contractor shall submit the name of the administrator to the Building Owner and APD.
3. The Contractor shall ensure that only those individuals who are medically able to wear respiratory protection equipment shall be issued a respirator. Before being issued a respirator, an employee of the Contractor shall have received a medical and physical examination and approved to wear a respirator.
4. Each employee of the Contractor that is determined to be fit to wear a respirator shall be fit tested, following applicable procedures outlined in OSHA regulations, upon receiving the respiratory equipment and then regularly throughout the project.

## 10. DECONTAMINATION UNITS

### A. GENERAL

#### 1. Personnel Decontamination Area

- a. The Contractor shall establish a decontamination unit to include an equipment room, clean room, and a shower outside each work area. The decontamination unit shall be a continuous with the work area.
- b. The clean room will contain boxes or lockers for each worker's street clothes. The boxes or lockers will be provided by the Contractor.
- c. Maintain floor of changing room dry and clean at all times. Do not allow the overflow water from shower to escape the shower room.
- d. Damp wipe all surfaces twice after each shift change with a disinfectant solution.
- e. Provide hot and cold water, adequate drainage, and standard fixtures including an elevated showerhead as necessary for a complete and operable shower. A water hose and bucket is not an acceptable shower.
- f. Arrange water shut-off and drain pump operation controls so that a single individual can shower without assistance from either inside or outside of the work area.
- g. Pump shower wastewater to drain. Provide 20 micron and 5 micron wastewater filters in line to drain. Change filters daily or more often if necessary.
- h. If the decontamination area is located within an area containing friable asbestos on overhead ceilings, ducts, piping, etc., provide the area with a minimum 3/8 inch plywood "ceiling" with two layers of polyethylene sheeting covering the top of the plywood "ceiling".
- i. Visual Barrier: Where the decontamination area is immediately adjacent to and within view of the occupied areas, provide a visual barrier of opaque plastic sheeting so that worker privacy is maintained and work procedures are not visible to the building occupants. Where the area adjacent to the decontamination area is accessible to the public, construct a solid barrier

(i.e. wood, metal, etc.) on the public side of the sheeting to protect the sheeting. Construct barrier using wood or metal studs, 16 inches on center maximum, covered with a minimum of 3/8 inch plywood or equivalent.

## 2. Equipment Decontamination Units

- a. Provide an equipment decontamination unit consisting of a serial arrangement of rooms - clean room, holding area, and washroom (at a minimum) with each room separated by a minimum of three curtain doorways for removal of equipment and material from work area. Do not allow personnel to enter or exit work area through equipment decontamination unit.
- b. Washroom: Provide a washroom for cleaning of bagged or drummed asbestos waste materials passed from the work area.
- c. Holding Area: Provide a holding area as a drop location for sealed drums and bagged asbestos waste materials passed from the washroom.
- d. Clean Room: Provide a clean room to isolate the holding area from the building exterior or occupied areas.
- e. Equipment or Material: Obtain all equipment or materials from the work area through the equipment decontamination unit according to the following procedure (at a minimum):
  - (1) When passing contaminated equipment, sealed plastic bags, drums or containers into the washroom, close all doorways of the equipment decontamination unit, other than the doorway between the work area and the washroom. Keep all outside personnel clear of the equipment decontamination unit.
  - (2) Once inside the washroom, wet-clean the bags and/or equipment.
  - (3) When wet-cleaning is complete, insert bagged waste material into a clean container (bag, drum, etc.) during the pass between the washroom and holding area. Close all doorways except the doorway between the washroom and holding area.
  - (4) Workers from the exterior of the work area enter the clean room then the holding area to remove decontaminated equipment and/or

containers for disposal. Require these workers to wear full protective clothing and respiratory protection as described in Section 8.0 and Section 9.0.

3. Maintenance of Enclosure System

- a. The Contractor's supervisor shall ensure that the barriers and plastic linings are effectively sealed and taped. Repair damaged barriers and remedy defects immediately upon discovery. Areas of damage and the required repairs will be documented in the project logbook.
- b. The Contractor's supervisor shall visually inspect the asbestos removal enclosure at the beginning of each work shift.
- c. Use smoke methods to test the effectiveness of the enclosure system when requested by the Building Owner or Building Owner's designated representative.

4. Decontamination Unit Contamination

- a. If the air quality in the decontamination unit exceeds 0.01 fibers per cubic centimeter analyzed by PCM or 70 structures per millimeter squared analyzed by TEM or its integrity is diminished through use as the Building Owner's air monitoring firm or other designated representative, no employee shall use the unit until corrective steps are taken and approved by the Building Owner's air monitoring firm or other designated representative.

## 11.0 PROJECT DECONTAMINATION

### A. GENERAL

1. Carry out a first cleaning of all surfaces of the work area including plastic sheeting, tools, scaffolding, and/or staging equipment/materials by use of damp cleaning and/or mopping and a HEPA vacuum until there is no visible debris from removed materials or residue on plastic sheeting or other surfaces. Do not perform dry dusting, dry sweeping, or blow down with high-pressure air or water systems.
2. Equipment shall be cleaned and all contaminated materials removed before removing polyethylene from the walls and floors.
3. The Contractor shall replace all pre-filters and clean the inside and outside of the HEPA exhaust units.
4. After removing polyethylene sheets from walls and floors but with polyethylene sheets remaining on all windows, doors, and critical components, the Contractor shall clean all surfaces in the work area including ducts, electrical conduits, steel beams, roof deck, etc. with amended water and then HEPA vacuum all surfaces.
5. After cleaning the work area, the Contractor shall allow the area to thoroughly dry and then wet-clean and HEPA vacuum all surfaces in the work area again.
6. At completion of the cleaning operations, the Contractor's supervisor shall perform a thorough visual inspection of the work area to ensure that the work area is dust and fiber free. When the supervisor believes the work area is ready for a final project decontamination inspection, he shall notify the Building Owner's air monitoring firm.
7. Upon notification of the Contractor's supervisor and after all work areas are dry, the personnel of the project's air monitoring firm shall perform a visual inspection for dust and/or fibers. The air monitoring firm will notify the Contractor's supervisor of any discrepancies found during the visual inspection. If the work area has not been adequately cleaned/decontaminated, cleaning shall be repeated at the Contractor's expense including additional visual inspections by the project's air monitoring firm until the work is found to be in compliance.

8. Assuming no discrepancies are noted and/or the work area is found to be in compliance, the Contractor shall apply an approved and compatible lockdown sealant to surfaces in the work area.
9. Once the lockdown sealant has been applied and the work area has dried, all entrances and exits shall be unsealed and the plastic sheeting, tape, and any other trash/debris shall be disposed of as ACM waste material as outlined in Section 14.
10. All HEPA unit intakes and exhausts shall be wrapped and sealed with 6 mil polyethylene before removing from the work area.
11. After the air monitoring firm has approved the final project decontamination and the Contractor has completed the tear down for occupancy by others, the air monitoring firm shall perform a final visual inspection of the work area.
12. Any residual ACM that is present after removing critical barriers that in the opinion of the air monitoring firm should have been removed/cleaned during the pre-cleaning phase prior to installing critical barriers shall be cleaned and re-cleared at the Contractor's expense.
13. There shall be appropriate seals totally enclosing the inspection area to keep it separate from clean areas or other areas where abatement/removal of ACM is or will be in progress. Once an area has been accepted and air monitoring has determined an area is found in compliance for re-occupancy, a loss of the critical barrier integrity or escape of asbestos dust into a previously identified clean area shall void the previous visual acceptance and air sampling clearance testing. Additional visual cleaning and air clearance sampling shall be required at the Contractor's expense.
14. Upon completion of the work, the Contractor shall remove all tools, equipment, and materials from the work area.
15. The Contractor shall leave the site clean, neat, and orderly and in a condition to begin new construction and/or renovation. The Contractor will be responsible for repair or replacement of the Building Owner's property damaged by the Contractor during performance of this project.

## 12.0 WORK AREA CLEARANCE

### A. GENERAL

1. Notification and scheduling of the final inspection during the project is the responsibility of the Contractor.

### B. FINAL CLEARANCE TESTING

1. After the second cleaning operation and after the area is completely dry, the following test procedures shall be performed:
  - a. The air monitoring firm retained by the Building Owner shall conduct a final inspection. The inspection shall be conducted following the guidelines set forth in the American Society for Testing and Materials (ASTM), Standard Practices for the Visual Inspection of Asbestos Abatement Projects, Designation E1368.90. If the work area is found visibly clean, the air monitoring firm will collect air samples for final clearance and re-occupancy.
  - b. During the air testing, the accredited air monitor shall perform aggressive air sampling as described in the EPA-AHERA regulations (40 CFR Part 763, Subpart E, Appendix A). Where non-friable removal techniques are utilized with limited containment, non-aggressive air sampling shall be performed.
  - c. Final clearance testing samples will be analyzed using the Transmission Electron Microscopy (TEM) Method described in 40 CFR Part 763, Subpart E, Appendix F will sampled as follows: during sampling, the maximum flow rate shall be 10 liters per minute or less with a minimum sample size of 1,200 liters for each sample. Clearance criteria shall be an arithmetic mean less than or equal to 70 structures per square millimeter or a Z-Test less than or equal to 1.65. Final clearance samples will be analyzed by an accredited laboratory with a 24 hour turn-around-time.
  - d. The client will pay for the initial clearance sampling and analysis. The initial clearance does not pass the required clearance criteria, additional cleaning will be performed by the abatement contractor at no additional cost to the client. In addition, the contractor will be responsible for all additional costs for clearance testing until the clearance criteria is met.

- e. Final clearance criteria shall be in accordance with applicable federal and state regulations, unless otherwise noted. The air monitoring firm will submit to the Building Owner a final report which shall describe the activities performed during the abatement of ACM at the building.
- f. The use of the negative pressure system, if necessary, may be discontinued after the air monitoring firm instructs the Contractor that they have passed the final project decontamination inspection.

## **PART 2 - PRODUCTS**

### **A. GENERAL**

1. The Contractor shall submit a list of all materials and products to be used during this project. The Building Owner reserves the right to review this list and reject any products deemed unacceptable. The Contractor will not substitute materials unless prior receipt of written approval by the Building Owner.

## **PART 3.0 – EXECUTION**

### **13.0 ASBESTOS REMOVAL**

#### **A. GENERAL**

1. It is the intent of this specification that the Contractor shall completely remove and dispose of all ACM from the work site as described herein this document. The identified areas of ACM are further described in this section, on the attached figures, and the attached laboratory results.
2. The Contractor shall perform the removal of all friable ACM or significantly damaged non-friable ACM from within reduced pressure enclosures or reduced pressure glove bag enclosures.
3. Prior to the Contractor's mobilization to the project site or starting the asbestos removal, the Contractor shall thoroughly decontaminate all equipment. The Contractor's equipment, decontamination units, and work area set-up shall be approved by the Building Owner's designated representative.
4. The Contractor shall be responsible for collecting personnel air monitoring samples in accordance with OSHA Construction Asbestos Standard 29 CFR 1926.1101 unless an initial exposure assessment has been submitted and approved by the Building Owner's representative. Results of the occupational and environmental sampling shall be submitted to the Building Owner's representative within three working days of collection, signed by the testing laboratory responsible official, the employee that performed the sampling, and the Contractor's competent person.
  - a. The sampling results shall represent each job classification, or if working conditions are similar to previous projects by the same employer, the Contractor may provide previously collected exposure data that can be used to estimate worker exposures in accordance with 29 CFR 1926.1101. The data shall represent the worker's regular daily exposure to asbestos.
  - b. The initial monitoring shall determine the requirements for further monitoring and the need to fully implement the control and protective requirements included in 29 CFR 1926.1101.
5. All loose asbestos material removed in the work area shall be adequately wetted, bagged, sealed, and labeled properly before personnel breaks or end of each shift.

6. All plastic sheeting, tape, cleaning materials, clothing, and all other disposable materials or items used in the work area shall be packed into sealable plastic bags (6 mil minimum thickness), doubled, and treated as contaminated material.
7. All materials shall be double-bagged prior to removing it from the established waste load out area.
8. All excess water (except shower water) shall be combined with removed material or other absorptive material and properly disposed of per EPA regulations. The Contractor shall not place water into storm drains, onto lawns, into ditches, creeks, streams, rivers, or oceans.
9. The Building Owner and/or Building Owner's designated representative may consider alternate removal procedures and methods, however, alternate removal procedures and methods shall not be utilized unless authorized in writing by the Building Owner or the Building Owner's designated representative.
10. Various tasks may be combined with the approval, in writing, by the Building Owner or Building Owner's designated representative.

**B. SCOPE OF WORK**

1. The Contractor shall furnish all labor, materials, services, insurance, and equipment necessary for the removal and disposal of ACM and materials as described in this section in the designated areas of the City of Concord Housing Authority Office building located at 283 Harold Goodman Circle in Concord, North Carolina (Figure 1). The abatement/removal and disposal will be performed in accordance with the appropriate and applicable Federal, State, and Local guidelines and regulations.
2. The quantities shown in this Section are estimates only. The Contractor has the responsibility for determining the actual quantities of material to be abated, removed, and disposed of. No additional contract price adjustments will be allowed due to variances between actual and the estimated quantities listed herein.

3. City of Concord Housing Office

Start Date: To Be Determined – Allowable work hours will be as follows:

Monday – Saturday 7 am to 7 pm

Sunday 9 am – 6 pm

All work should be completed within ten (10) calendar days of starting work date.

After removal of approximately 730 square feet of non-asbestos containing flooring materials, the project work area shall be observed to determine the extent and quantity of asbestos containing mastic that must be abated and disposed of. After the extent and quantity of asbestos containing floor mastic has been determined, the abatement contractor will proceed with the removal of the asbestos containing mastic.

Prior to starting abatement of asbestos containing mastic, the contractor will seal all HVAC vents or other openings in a manner to prevent migration of dust into the building's ductwork or outside the work area. If necessary, the contractor will seal all other items such as light fixtures, etc. to prevent possible contamination as a result of the abatement activities. Once the necessary prep work has been completed and the work area has been approved by the client or the client's approved representative, the contractor will proceed with the abatement of an estimated 730 square feet of asbestos containing mastic on the floor of the building.

## 14.0 ASBESTOS REMOVAL METHODS

### 1. Asbestos Removal

- a. Establish a control area as outlined in Section 7.0 and 10.0 of this specification.
- b. Pre-clean and decontaminate all items appropriately that may be contaminated within the control area. Remove and dispose of any asbestos contaminated items if they cannot be decontaminated.
- c. The ACM shall be wet down and removed and placed into properly labeled 6 mil polyethylene bags and sealed with duct tape. Seal bag within a clean bag.
- d. Any additional waste materials shall be placed into properly labeled 6 mil polyethylene bags and seal with duct tape. Seal bag within a clean bag.
- e. After asbestos removal, no asbestos materials shall be visible on exposed surfaces. If so, clean-up work shall be done at the Contractor's expense until all visible evidence of asbestos has been removed.
- f. Glove Bag Removal: As appropriate or as needed, the Contractor may use glove bags for removal of pipe insulation as allowed by current OSHA Standard 1926.1101.
  - (1) Position bag around the pipe insulation to be removed and seal to pipe with tape. Construct a sealed side port to allow access for wetting asbestos and evacuating the bag with a HEPA filtered vacuum. In accordance with the OSHA Standards, each glove bag shall be smoke-tested for leaks and any leaks sealed prior to use.
  - (2) Wet the insulation as much as possible to minimize dust generation.
  - (3) Cut insulation along a joint with a sharp knife into manageable sections and let fall into bag.
  - (4) Scrape all residual insulation completely off pipes, brackets, and hangers.
  - (5) Tape glove together below pipe before removing bag from pipe. Completely evacuate air from bag with a HEPA vacuum.
  - (6) Place contaminated glove bag into a properly labeled 6 mil polyethylene bag and seal with duct tape.

## **15.0 DISPOSAL OF ASBESTOS CONTAINING WASTE MATERIAL**

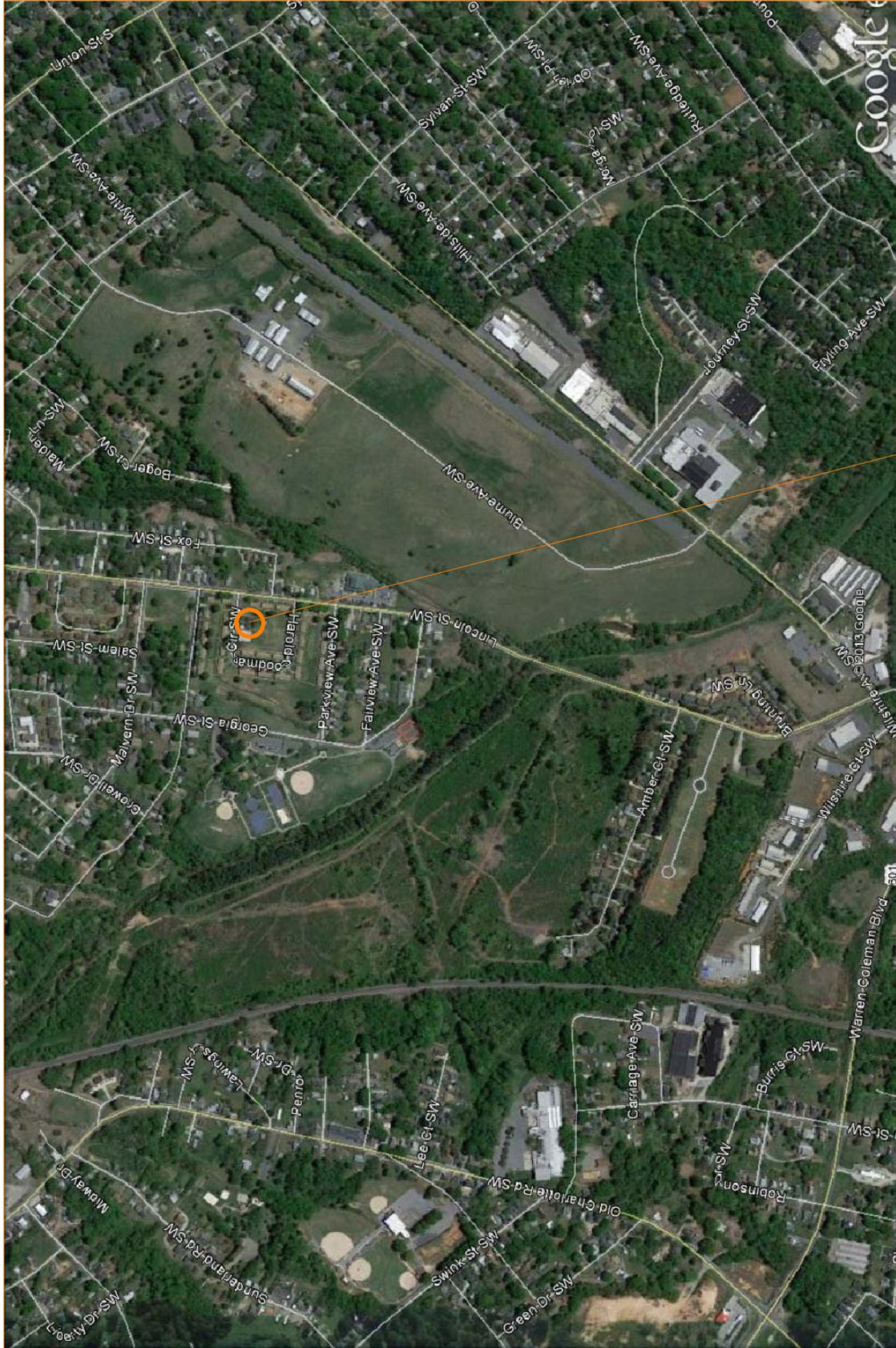
### **A. GENERAL**

1. Within the work area, all asbestos containing materials and miscellaneous contaminated debris shall be immediately placed into properly labeled 6 mil polyethylene bags or appropriate non-porous waste containers; properly sealed and protected. All material shall be double bagged and wet-wiped prior to removing to waste load-out area.
2. If a dumpster is to remain on the project site during abatement/removal operations to accumulate waste before disposal, then it must be completely closed or covered (no open-top dumpsters). The load-out vehicle/dumpster shall be locked and labeled with warning signs while located at the project site. The placement of the dumpster shall be approved by the Building Owner.
3. Waste disposal polyethylene bags (6 mil thickness minimum) and containers, non-porous (steel/plastic) drums or equivalent, with labels, appropriate for storing asbestos waste during transportation to the disposal site shall be utilized. In addition to the OSHA, NESHAP, and DOT labeling requirements, all containers shall be labeled with the date of removal, the name of the waste generator, and the location at which the waste was generated.
4. The Contractor shall transport the containers and bags of ACM waste material to the approved waste disposal site. An enclosed vehicle will be used to haul the ACM waste materials to the disposal site. No rental vehicles or trailers shall be used. Vehicle selection, vehicle covers, and associated work practices shall assure that no asbestos dust becomes airborne during the loading, transport, and unloading activities, and that materials placed at the waste site is performed without breaking any seals. Transportation of the waste material to the pre-designated disposal site shall be in accordance with 40 CFR 61.150 and DOT 49 CFR Parts 100 – 399.
5. Workers loading and unloading the asbestos waste materials shall wear respirators and disposable clothing when handling waste materials. Asbestos warning signs shall be posted during loading and unloading the asbestos waste materials.
6. The Contractor shall use the NC HHCUC's Waste Shipment Record (Form 3787) for disposal records per 40 CFR 61.150 and distribute a copy of all waste shipment records to the Building Owner after completion of the project.

**END OF SPECIFICATION**

## **APPENDIX 1**

### **FIGURES**



283 HAROLD GOODMAN CIRCLE

FIGURE

**1**

**ASBESTOS ABATEMENT DESIGN  
283 HAROLD GOODMAN CIRCLE  
CONCORD, NORTH CAROLINA**

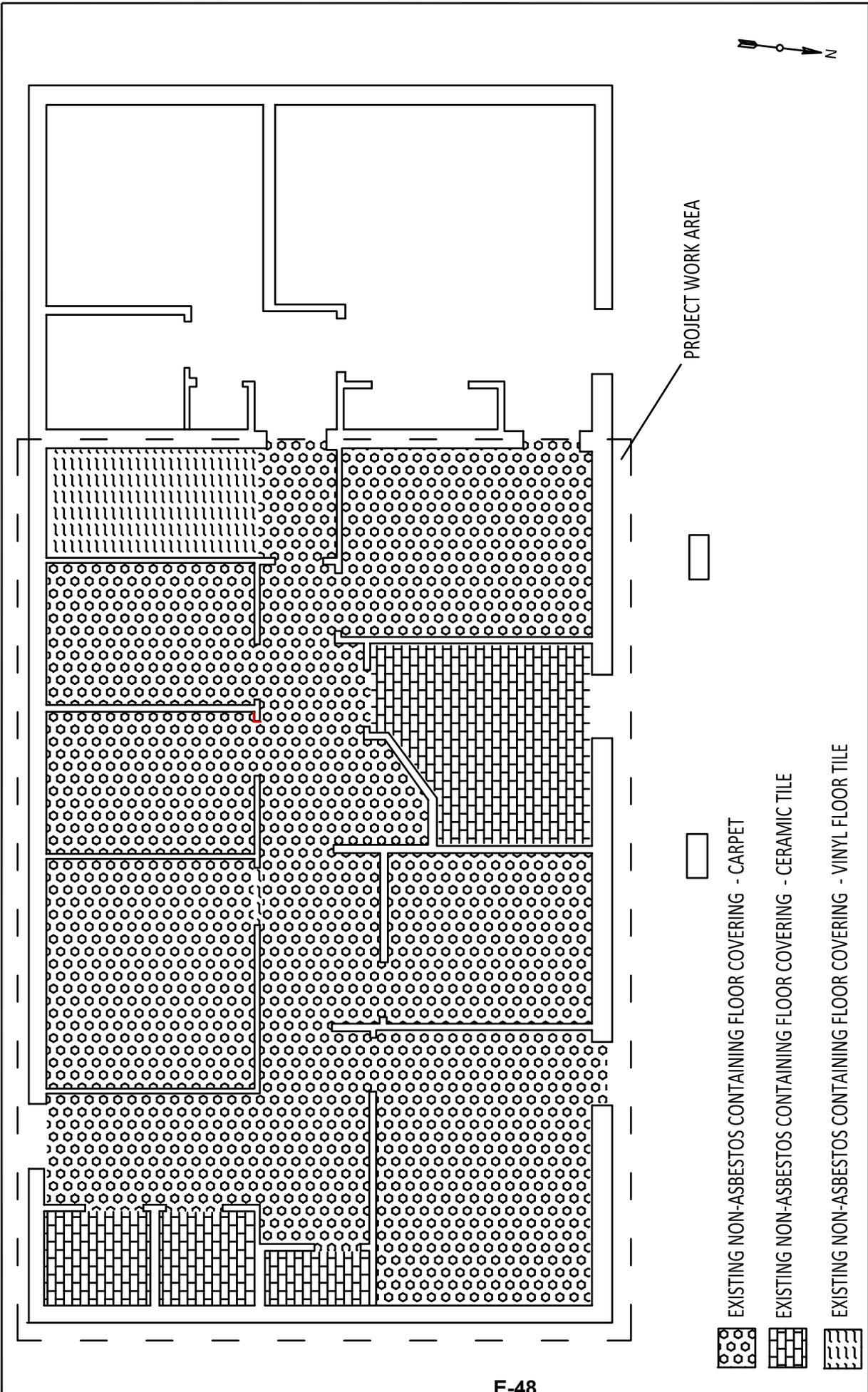
**ALLIED CONSULTING &  
ENVIRONMENTAL SERVICES**  
SHELBY, NORTH CAROLINA  
P.O. BOX 2426 (28151-2426) 704-600-6255  
409 E. MARION ST. (28150) FAX 704-482-5596



**PROJ. NUM.:** 2013 - 07 - 056

**DATE:** July 19, 2013

**SITE  
LOCATION PLAN**

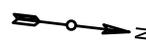


EXISTING NON-ASBESTOS CONTAINING FLOOR COVERING - CARPET

EXISTING NON-ASBESTOS CONTAINING FLOOR COVERING - CERAMIC TILE

EXISTING NON-ASBESTOS CONTAINING FLOOR COVERING - VINYL FLOOR TILE

PROJECT WORK AREA



PROJ. NUM.: 2013 - 07 - 056

DATE: JULY 19, 2013

LOCATION PLAN

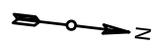
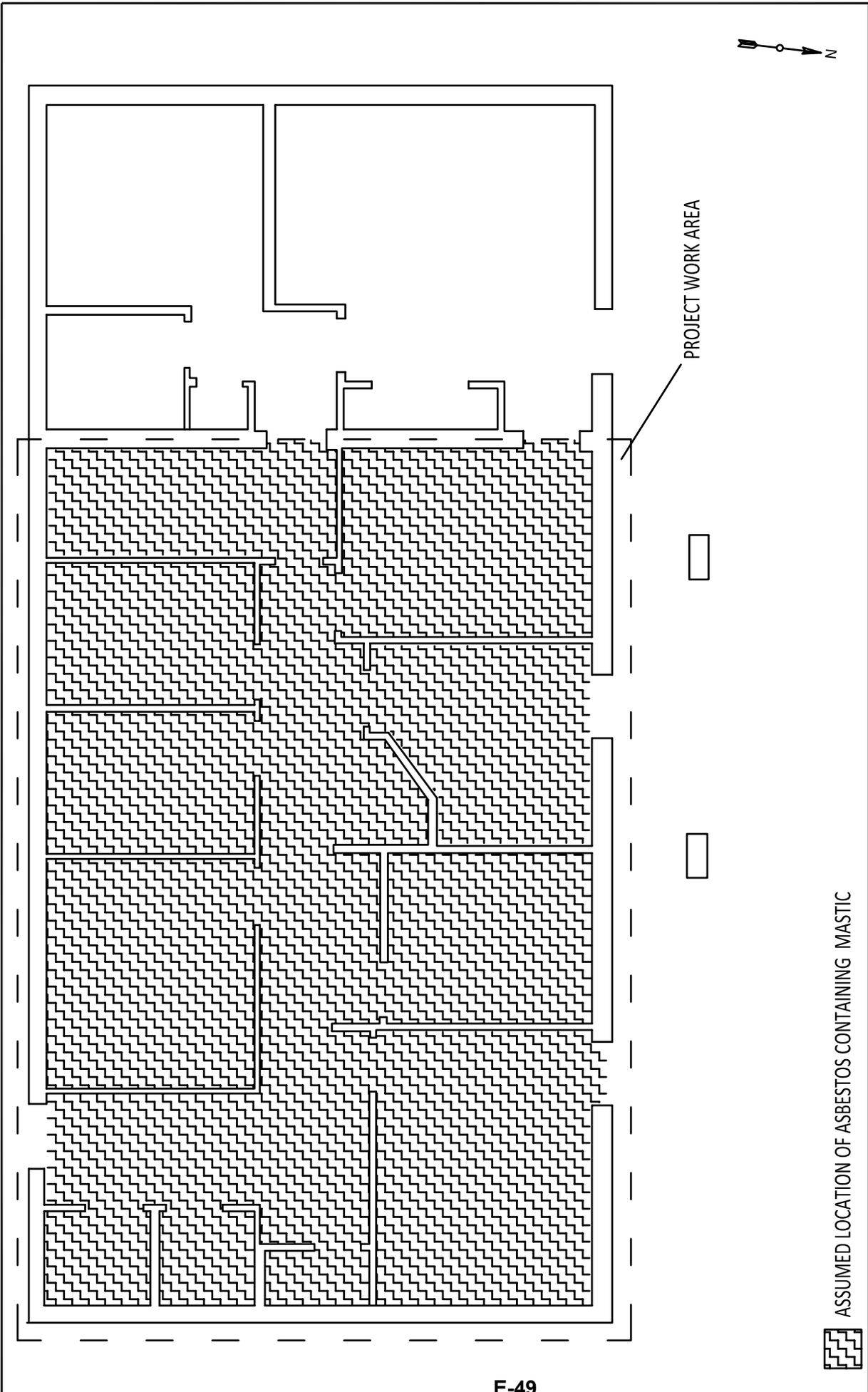
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FIGURE

**2**

**ASBESTOS ABATEMENT DESIGN**  
**CITY OF CONCORD HOUSING OFFICE**  
**283 HAROLD GOODMAN CIRCLE**  
**CONCORD, NORTH CAROLINA**



PROJECT WORK AREA



ASSUMED LOCATION OF ASBESTOS CONTAINING MASTIC

PROJ. NUM.: 2013 - 07 - 056

DATE: JULY 19, 2013

**LOCATION PLAN**

**ALLIED CONSULTING &  
ENVIRONMENTAL SERVICES**  
SHELBY, NORTH CAROLINA  
P.O. BOX 2426 (28151-2426) 704-600-6255  
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FIGURE

**3**

**ASBESTOS ABATEMENT DESIGN  
CITY OF CONCORD HOUSING OFFICE  
283 HAROLD GOODMAN CIRCLE  
CONCORD, NORTH CAROLINA**

**APPENDIX 2**  
**PREVIOUS ASBESTOS SURVEY REPORT**

# **SURVEY REPORT FOR ASBESTOS CONTAINING MATERIALS**

Prepared for:

**CITY OF CONCORD  
POST OFFICE BOX 308  
CONCORD, NORTH CAROLINA 28026-0308**

Regarding:

**PROPOSED BUILDING RENOVATION  
283 HAROLD GOODMAN CIRCLE  
CONCORD, NORTH CAROLINA**

**ACES Project No.: 2013-03-014**

**March 19, 2013**



# **SURVEY REPORT FOR ASBESTOS CONTAINING MATERIALS**

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**PROPOSED BUILDING RENOVATION**  
**283 HAROLD GOODMAN CIRCLE**  
**CONCORD, NORTH CAROLINA**

**ACES Project No.: 2013-03-014**

**March 19, 2013**

Prepared by:

  
DeWitt Whitten, CHMM, REM, CES, REPA  
General Manager  
NC Licensed Asbestos Inspector #10706

Reviewed by:

  
Robert L. Smith, AIA, LEED AP  
Managing Partner

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## **1.0 INTRODUCTION**

As authorized by Mr. Enrique Blat of the City of Concord on March 5, 2013, Allied Consulting and Environmental Services, LLC (ACES) personnel performed a survey for suspect asbestos containing materials (ACM) for the building (Figure 1 in Appendix 1) located at 283 Harold Goodman Circle in Concord, North Carolina. The survey was performed on March 8, 2013. The survey was conducted for the purpose of identifying asbestos containing materials that may be impacted by the proposed renovation of the structure.

## **2.0 GENERAL BACKGROUND INFORMATION**

### **2.1 Asbestos**

The term “asbestos” refers to a group of naturally-occurring, fibrous minerals that are commercially mined throughout the world, primarily in Canada, Russia, and South Africa. Asbestos has been used in hundreds of products. Collectively, these products are referred to as asbestos-containing materials (ACMs). Asbestos gained wide use because it is plentiful, readily available, low in cost, and because of its unique properties – fire resistance, high tensile strength, resistance, and insulating characteristics.

As an insulator, asbestos received wide spread use for thermal insulation and condensation control. Asbestos is added to a variety of building materials to enhance strength. It is found in concrete and concrete-like products. Asbestos cement products are used as siding and roofing shingles, wallboard, as corrugated or flat sheets for roofing and partition walls, and as piping. Asbestos has also been added to asphalt, vinyl, and other materials to make products like roofing cements, felts and shingles, exterior siding materials, floor tiles, joint compounds, and mastics/adhesives. Asbestos also proved valuable as a component of acoustical plaster. This material was troweled on or sprayed on to ceilings or walls. As a decorative product, asbestos was frequently used to texture ceilings, walls, and other painted surfaces. Asbestos is still mined commercially and used in many common products, including brake shoes, roofing materials, and flooring products. It is important to realize that commercially available products containing asbestos can still be purchased. It is a common misconception that asbestos is no longer used.

The three most commonly encountered types of asbestos are sometimes referred to by their predominant color. Chrysotile (white) is by far the most frequently used asbestos mineral, constituting approximately 95% of all commercial and industrial applications. Chrysotile fibers are long and flexible and can be spun or woven into cloth. Amosite (brown) and crocidolite (blue) are used in approximately 4-5% of asbestos-containing products.

The U.S. Environmental Protection Agency promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) [40 CFR Part 61], which addresses the application, removal,

and disposal of asbestos-containing materials (ACM). Under NESHAP the following categories are defined for asbestos-containing materials:

Friable - When dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

Nonfriable - When dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Category I Nonfriable ACM - Packings, gaskets, resilient floor coverings, and asphalt roofing products containing more than 1% asbestos.

Category II Nonfriable ACM - Any material excluding Category I Nonfriable ACM containing more than 1% asbestos.

Regulated Asbestos Containing Material (RACM) – One of the following:

1. Friable ACM
2. Category I Nonfriable ACM that has become friable.
3. Category I Nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading.
4. Category II Nonfriable ACM that has a high probability of becoming, or has become, friable by the forces expected to act on the material in the course of demolition or renovation operations.

Under NESHAP, the following actions are required:

1. Prior to the commencement of demolition or renovation activities, the building owner must inspect the affected facility or part of the facility where the demolition or renovation activities will occur for the presence of asbestos.
2. Remove all RACM from the facility before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access for subsequent removal.
3. RACM need not be removed if:
  - a) It is Category I nonfriable ACM that is not in poor condition.
  - b) It is on a facility component that is encased in concrete or other similar material and is adequately wet whenever exposed.
  - c) It was not accessible for testing and was therefore not discovered until after demolition began and because of the demolition the material cannot be safely removed.
  - d) It is Category II nonfriable ACM and the probability is low that the material will become crumbled, pulverized, or reduced to powder during demolition.

The Occupational Safety and Health Administration (OSHA) has established three sets of regulatory standards pertaining to asbestos exposure:

29 CFR 1910.1001	General Industry
29 CFR 1926.1101	Construction Industry
29 CFR 1910.134	Respiratory Protection

The construction industry standard covers activities involving asbestos demolition, removal, alteration, repair, maintenance, installation, cleanup, transportation, disposal, and storage. The general industry standard covers other activities where asbestos exposure is possible. Addressed under the OSHA standards are building owner / employer responsibilities regarding the identification of identified or presumed asbestos containing materials (PACM), notification to tenants / employees of the presence of asbestos, employee training, and work procedures.

## **2.2 Project Scope**

The structure is located at 283 Harold Goodman Circle (Figure 1 in Appendix 1) and is currently utilized as the City of Concord's Housing Department's Administrative Office. The existing structure is a single-story, masonry-walled building that appears to utilize a concrete slab-on-grade floor slab system. The building contains approximately 1,738 square feet and was reportedly constructed in 1959. It is our understanding that the building will undergo a complete renovation of the interior and an addition will be constructed adjacent to the eastern end of the existing building.

## **3.0 METHODOLOGY**

### **3.1 Asbestos**

For this project, a visual, invasive survey and sampling for suspect asbestos containing materials (ACM) was conducted at the above referenced building. ACES personnel submitted a total of thirty-two (32) bulk samples of suspect ACM that may be impacted by the planned renovation project. Samples were collected by a NC Licensed Asbestos Inspector (DeWitt Whitten - #10706) and submitted to a NVLAP Accredited Asbestos Laboratory (EMSL in Charlotte, NC). Samples were analyzed using Polarized Light Microscopy (PLM) by EPA Method 600/R-93/116. A total of forty-four (44) samples were analyzed by the laboratory. Samples included the following materials: ceiling finish, drywall, spackling (joint compound), ceiling tile (2 types), plaster wall sections, floor tile (2 types) and associated mastic, exterior window caulk, exterior door caulk, roof shingles, and roof felt. Please refer to the Sample Location Plan (Figure No. 2) and the Chain of Custody sheet in Appendices 1 and 2, respectively, for the approximate sample locations and the specific materials sampled.

## **4.0 FINDINGS AND RECOMMENDATIONS**

### **4.1 Non-Asbestos Containing Materials - Findings**

Forty-three (43) of the forty-four (44) samples of suspect ACM collected on March 8, 2013 and analyzed by EMSL did not contain asbestos, (i.e. greater than one percent asbestos).

### **4.2 Asbestos Containing Materials - Findings**

Asbestos was detected in one (1) of the forty-four (44) samples analyzed by EMSL. The asbestos containing material (ACM) was a brown layer associated sample FT-3 (white floor tile) and contained approximately five (5) percent chrysotile asbestos.

### **4.3 Recommendations - Asbestos Containing Materials**

Based upon the analysis of the suspect asbestos containing materials (ACM), it appears that a brown layer associated with the white floor tile contains five (5) percent chrysotile asbestos. The ACM was not identified in sample FT-4 but should be assumed to be located throughout the building where the white floor is present. The brown layer associated with the white floor tile is classified as Category 1 Non-friable ACM in its current condition. If the white floor tile and this material will be removed prior to the renovation, it may become friable depending upon the removal methods. Therefore, the ACM is considered a Regulated Asbestos Containing Material (RACM). ACES recommends the RACM be abated prior to renovation. Disposal of the removed ACM should be disposed of in accordance with applicable local, state, and federal regulations/guidelines by accredited personnel. Based upon the estimated quantity of ACM (<3,000 square feet), an asbestos abatement design plan is not be required by the applicable state regulations prior to the abatement of the RACM, however, permitting of the removal will be required.

## **5.0 LIMITATIONS**

This report has been prepared for the exclusive use of THE City of Concord and their agents for specific application to the building located 283 Harold Goodman Circle in Concord, North Carolina. This report has been prepared in accordance with generally accepted environmental practices. No other warranty, expressed or implied, is made. Our observations are based upon conditions readily visible at the time of our site visit. We have not verified the completeness or accuracy of the information provided by others.

During the site visit, accessible areas were visually surveyed for the presence of suspect asbestos containing materials (ACM). Inaccessible areas, such as above ceilings or behind walls may have not been surveyed; therefore, all ACM may not have been identified. Areas inspected were those designated by the scope of services. As with any similar survey of this

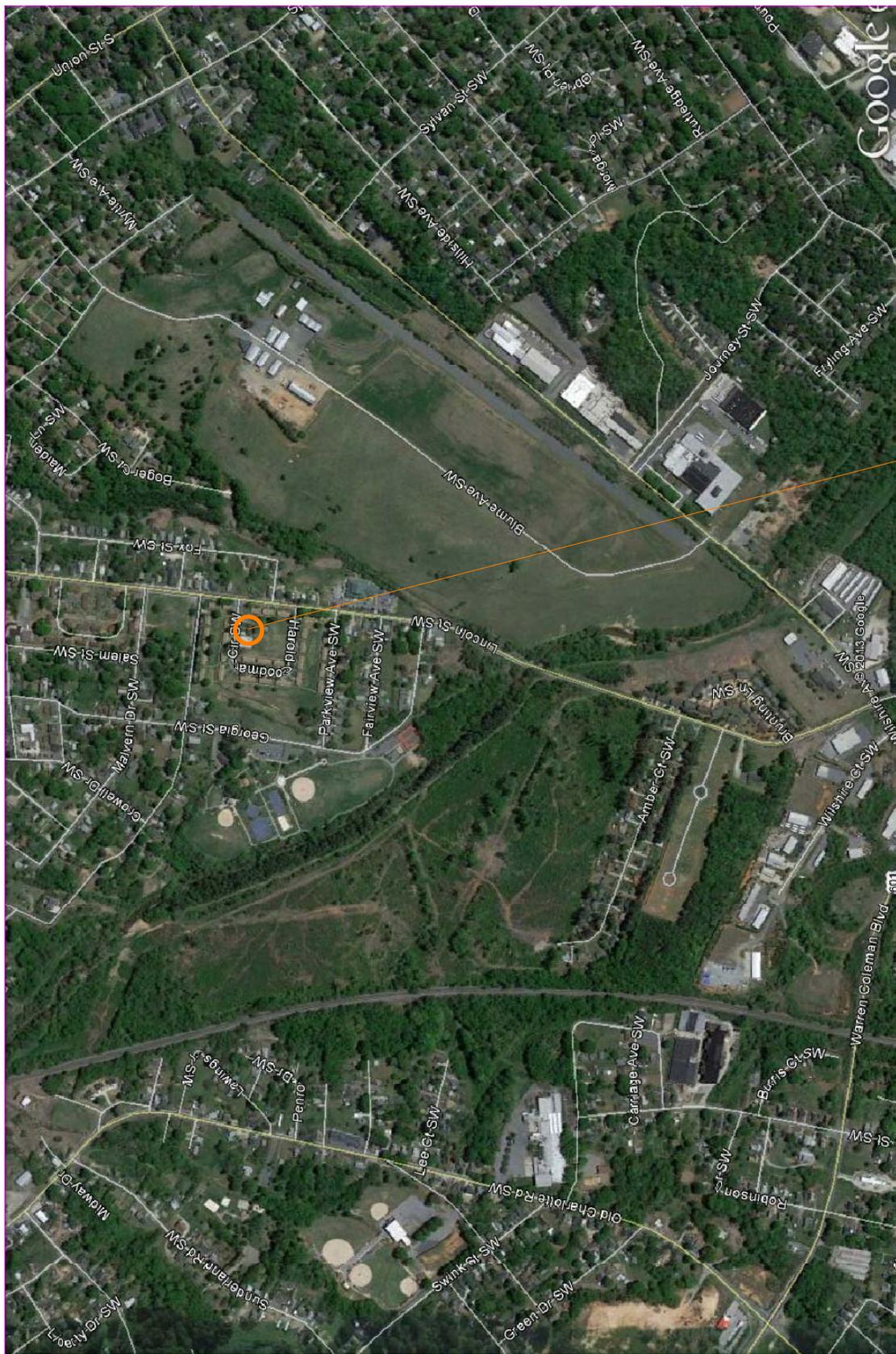
nature, actual conditions exist only at the precise locations from which bulk samples were collected. Certain inferences are based on the results of this sampling and related testing to form a professional opinion of conditions in areas beyond those from which the samples were collected. No other warranty, expressed or implied, is made.

Under the scope of services, ACES assumes no responsibility regarding response actions (e.g. O&M Plan, encapsulation, abatement, removal, worker notification, etc.) initiated as a result of these findings. ACES assumes no liability for the duties and responsibilities of the Building Owner with respect to compliance with these regulations. Compliance with regulations and response actions are the sole responsibility of the Building Owner and should be conducted in accordance with local, state and/or federal requirements, and should be performed by appropriately qualified and licensed personnel, as warranted.

ACES, by virtue of providing the services described in this report, does not assume the responsibility of the person(s) in charge of the site, or otherwise undertake responsibility for reporting to any local, state, or federal public agencies any conditions at the site that may present a potential danger to public health, safety, or the environment. It is the client's responsibility to notify the appropriate local, state, or federal public agencies as required by law, or otherwise to disclose, in a timely manner, any information that may be necessary to prevent any danger to public health, safety, or the environment.

## **APPENDIX 1**

## **FIGURES**



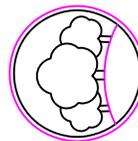
283 HAROLD GOODMAN CIRCLE

FIGURE

**1**

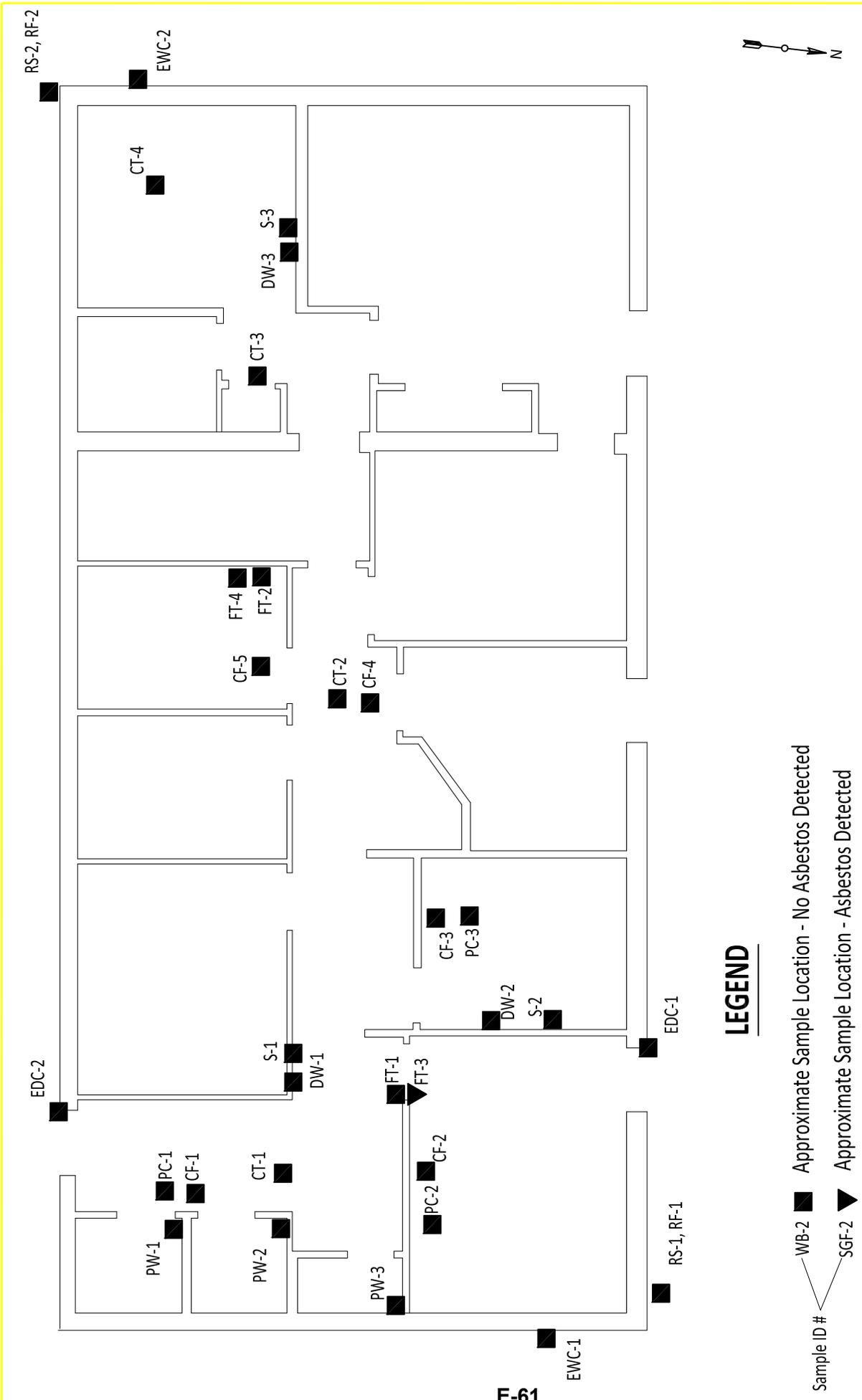
**ASBESTOS RENOVATION SURVEY  
283 HAROLD GOODMAN CIRCLE  
CONCORD, NORTH CAROLINA**

**ALLIED CONSULTING &  
ENVIRONMENTAL SERVICES**  
SHELBY, NORTH CAROLINA  
P.O. BOX 2426 (28151-2426) 704-600-6255  
409 E. MARION ST. (28150) FAX 704-482-5596



**PROJ. NUM.:** 2013 - 03 - 010  
**DATE:** MARCH 18, 2013

**SITE  
LOCATION PLAN**



**LEGEND**

- WB-2 ■ Approximate Sample Location - No Asbestos Detected
- SGF-2 ▼ Approximate Sample Location - Asbestos Detected

PROJ. NUM.: 2013 - 03 - 014  
 DATE: MARCH \_\_, 2013

**SAMPLE  
 LOCATION PLAN**

**ALLIED CONSULTING &  
 ENVIRONMENTAL SERVICES**  
 SHELBY, NORTH CAROLINA  
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**ASBESTOS RENOVATION SURVEY  
 HOUSING DEPARTMENT ADMINISTRATIVE OFFICE  
 283 HAROLD GOODMAN CIRCLE  
 CONCORD, NORTH CAROLINA**

FIGURE **2**

## **APPENDIX 2**

### **ASBESTOS ANALYTICAL RESULTS CHAIN of CUSTODY SHEETS**



# EMSL Analytical, Inc.

376 Crompton Street, Charlotte, NC 28273  
Phone/Fax: (704) 525-2205 / (704) 525-2382  
<http://www.emsl.com> [charlottelab@emsl.com](mailto:charlottelab@emsl.com)

EMSL Order: 411301041  
CustomerID: ALLC25  
CustomerPO:  
ProjectID:

Attn: **Dewitt Whitten**  
**Allied Consulting & Environmental Svcs**  
**P.O. Box 2426**  
**Shelby, NC 28151**

Phone: (704) 600-6255  
Fax:  
Received: 03/09/13 9:53 AM  
Analysis Date: 3/11/2013  
Collected:

Project: **283 HG Circle/2013-03-014**

## Test Report: Asbestos Analysis of Bulk Materials via EPA 600/R-93/116 and/or EPA 600/M4-82-020 Method(s) using Polarized Light Microscopy

Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
RS-1 411301041-0001	Roof Shingle	Brown/Black Fibrous Heterogeneous	5% Glass	95% Non-fibrous (other)	None Detected
RS-2 411301041-0002	Roof Shingle	Black Fibrous Heterogeneous	5% Glass	95% Non-fibrous (other)	None Detected
RF-1 411301041-0003	Roof Felt	Black Fibrous Heterogeneous	50% Cellulose	50% Non-fibrous (other)	None Detected
RF-2 411301041-0004	Roof Felt	Black Fibrous Heterogeneous	50% Cellulose	50% Non-fibrous (other)	None Detected
EDC-1 411301041-0005	Exterior Door Caulk	Gray Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
EDC-2 411301041-0006	Exterior Door Caulk	Gray/White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
EWC-1 411301041-0007	Exterior Window Caulk	Gray Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
EWC-2 411301041-0008	Exterior Window Caulk	Gray/White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected

Analyst(s)  
Christopher Estes (25)  
Eric Loomis (19)

  
Lee Plumley, Laboratory Manager  
or other approved signatory

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Samples analyzed by EMSL Analytical, Inc. Charlotte, NC NVLAP Lab Code 200841-0, VA 3333 00312

Initial report from 03/13/2013 09:07:27



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376 Crompton Street, Charlotte, NC 28273  
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<http://www.emsl.com> [charlottelab@emsl.com](mailto:charlottelab@emsl.com)

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ProjectID:

Attn: **Dewitt Whitten**  
**Allied Consulting & Environmental Svcs**  
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Collected:

Project: **283 HG Circle/2013-03-014**

## Test Report: Asbestos Analysis of Bulk Materials via EPA 600/R-93/116 and/or EPA 600/M4-82-020 Method(s) using Polarized Light Microscopy

Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
CT-1 411301041-0009	Ceiling Tile	Gray/White Fibrous Heterogeneous	45% Cellulose 2% Min. Wool	53% Non-fibrous (other)	None Detected
CT-2 411301041-0010	Ceiling Tile	Gray/White Non-Fibrous Heterogeneous	50% Cellulose 5% Min. Wool	45% Non-fibrous (other)	None Detected
CT-3 411301041-0011	Ceiling Tile	Gray/White Fibrous Heterogeneous	40% Cellulose 10% Min. Wool	50% Non-fibrous (other)	None Detected
CT-4 411301041-0012	Ceiling Tile	Gray/White Fibrous Heterogeneous	50% Cellulose 10% Min. Wool	40% Non-fibrous (other)	None Detected
CF-1 411301041-0013	Ceiling Finish	Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
CF-2 411301041-0014	Ceiling Finish	Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
CF-3 411301041-0015	Ceiling Finish	Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
CF-4 411301041-0016	Ceiling Finish	Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected

Analyst(s)  
Christopher Estes (25)  
Eric Loomis (19)

  
Lee Plumley, Laboratory Manager  
or other approved signatory

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Samples analyzed by EMSL Analytical, Inc. Charlotte, NC NVLAP Lab Code 200841-0, VA 3333 00312

Initial report from 03/13/2013 09:07:27



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EMSL Order: 411301041  
 CustomerID: ALLC25  
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Attn: **Dewitt Whitten**  
**Allied Consulting & Environmental Svcs**  
**P.O. Box 2426**  
**Shelby, NC 28151**

Phone: (704) 600-6255  
 Fax:  
 Received: 03/09/13 9:53 AM  
 Analysis Date: 3/11/2013  
 Collected:

Project: **283 HG Circle/2013-03-014**

## Test Report: Asbestos Analysis of Bulk Materials via EPA 600/R-93/116 and/or EPA 600/M4-82-020 Method(s) using Polarized Light Microscopy

Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
CF-5 411301041-0017	Ceiling Finish	Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PW-1-Skim Coat 411301041-0018	Plaster Wall Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PW-1-Rough Coat 411301041-0018A	Plaster Wall Sections	Gray Fibrous Heterogeneous	1% Cellulose	99% Non-fibrous (other)	None Detected
PW-2-Skim Coat 411301041-0019	Plaster Wall Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PW-2-Rough Coat 411301041-0019A	Plaster Wall Sections	Gray Fibrous Heterogeneous	<1% Cellulose	100% Non-fibrous (other)	None Detected
PW-3-Skim Coat 411301041-0020	Plaster Wall Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PW-3-Rough Coat 411301041-0020A	Plaster Wall Sections	Gray Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PC-1-Skim Coat 411301041-0021	Plaster Ceiling Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected

Analyst(s)  
 Christopher Estes (25)  
 Eric Loomis (19)

  
 Lee Plumley, Laboratory Manager  
 or other approved signatory

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Initial report from 03/13/2013 09:07:27



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Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
PC-1-Rough Coat 411301041-0021A	Plaster Ceiling Sections	Gray Fibrous Heterogeneous	<1% Cellulose	100% Non-fibrous (other)	None Detected
PC-2-Skim Coat 411301041-0022	Plaster Ceiling Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PC-2-Rough Coat 411301041-0022A	Plaster Ceiling Sections	Gray Fibrous Heterogeneous	<1% Cellulose	100% Non-fibrous (other)	None Detected
PC-3-Skim Coat 411301041-0023	Plaster Ceiling Sections	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
PC-3-Rough Coat 411301041-0023A	Plaster Ceiling Sections	Gray Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
DW-1 411301041-0024	Drywall	Gray Fibrous Heterogeneous	5% Cellulose	95% Non-fibrous (other)	None Detected
DW-2 411301041-0025	Drywall	Gray Non-Fibrous Heterogeneous	5% Cellulose	95% Non-fibrous (other)	None Detected
S-1 411301041-0026	Spackling (Joint Compound)	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected

Analyst(s)  
 Christopher Estes (25)  
 Eric Loomis (19)

  
 Lee Plumley, Laboratory Manager  
 or other approved signatory

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Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
S-2 411301041-0027	Spackling (Joint Compound)	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
S-3 411301041-0028	Spackling (Joint Compound)	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-1-Floor Tile 411301041-0029	Green Floor Tile - top layer	White/Green Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-1-Mastic 411301041-0029A	Green Floor Tile - top layer	Tan Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-2-Floor Tile 411301041-0030	Green Floor Tile - top layer	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-2-Mastic 411301041-0030A	Green Floor Tile - top layer	Tan Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-3-Floor Tile 411301041-0031	White Floor Tile - bottom layer	White/Beige Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-3-Mastic 411301041-0031A	White Floor Tile - bottom layer	Tan Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected

Analyst(s)

Christopher Estes (25)  
 Eric Loomis (19)

Lee Plumley, Laboratory Manager  
 or other approved signatory

EMSL maintains liability limited to cost of analysis. This report relates only to the samples reported and may not be reproduced, except in full, without written approval by EMSL. EMSL bears no responsibility for sample collection activities or analytical method limitations. Interpretation and use of test results are the responsibility of the client. This report must not be used by the client to claim product certification, approval, or endorsement by NVLAP, NIST or any agency of the federal government. Non-friable organically bound materials present a problem matrix and therefore EMSL recommends gravimetric reduction prior to analysis. Samples received in good condition unless otherwise noted. Estimated accuracy, precision and uncertainty data available upon request. Unless requested by the client, building materials manufactured with multiple layers (i.e. linoleum, wallboard, etc.) are reported as a single sample. Reporting limit is 1%  
 Samples analyzed by EMSL Analytical, Inc. Charlotte, NC NVLAP Lab Code 200841-0, VA 3333 00312

Initial report from 03/13/2013 09:07:27



# EMSL Analytical, Inc.

376 Crompton Street, Charlotte, NC 28273  
Phone/Fax: (704) 525-2205 / (704) 525-2382  
<http://www.emsl.com> [charlottelab@emsl.com](mailto:charlottelab@emsl.com)

EMSL Order: 411301041  
CustomerID: ALLC25  
CustomerPO:  
ProjectID:

Attn: **Dewitt Whitten**  
**Allied Consulting & Environmental Svcs**  
**P.O. Box 2426**  
**Shelby, NC 28151**

Phone: (704) 600-6255  
Fax:  
Received: 03/09/13 9:53 AM  
Analysis Date: 3/11/2013  
Collected:

Project: **283 HG Circle/2013-03-014**

## Test Report: Asbestos Analysis of Bulk Materials via EPA 600/R-93/116 and/or EPA 600/M4-82-020 Method(s) using Polarized Light Microscopy

Sample	Description	Appearance	Non-Asbestos		Asbestos
			% Fibrous	% Non-Fibrous	% Type
FT-3-Brown Layer 411301041-0031B	White Floor Tile - bottom layer	Brown Non-Fibrous Heterogeneous		95% Non-fibrous (other)	5% Chrysotile
FT-4-Floor Tile 411301041-0032	White Floor Tile - bottom layer	White Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-4-Mastic 411301041-0032A	White Floor Tile - bottom layer	Tan Non-Fibrous Heterogeneous		100% Non-fibrous (other)	None Detected
FT-4-Brown Layer 411301041-0032B	White Floor Tile - bottom layer	Brown Fibrous Heterogeneous	5% Cellulose	95% Non-fibrous (other)	None Detected

Analyst(s)  
Christopher Estes (25)  
Eric Loomis (19)

Lee Plumley, Laboratory Manager  
or other approved signatory

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Samples analyzed by EMSL Analytical, Inc. Charlotte, NC NVLAP Lab Code 200841-0, VA 3333 00312

Initial report from 03/13/2013 09:07:27

411301041



Asbestos Lab Services Chain of Custody  
**EMSL Order Number** (Lab Use Only):

Charlotte, NC  
 376 Crompton Street  
 Charlotte, NC 28273  
 PHONE: (704) 525-2205  
 FAX: (704) 525 2382

Company: Allied Consulting & Environmental Services, LLC		EMSL-Bill to: <input checked="" type="checkbox"/> Same <input type="checkbox"/> Different <small>If Bill to is Different note instructions in Comments**                  Third Party Billing requires written authorization from third party</small>	
Street: P. O. Box 2426			
City/State/Zip: Shelby, NC 28151			
Report To (Name): DeWitt Whitten		Fax: 7044825596	
Telephone: 7042320152		Email Address: dewitt@aces-env.com	
Project Name/Number: <u>283 HG Circl / 2013-03-014</u>			
Please Provide Results: Email		Purchase Order:	State Samples Taken: NC

**Turnaround Time (TAT) Options\* - Please Check**

3 Hour  
  6 Hour  
  24 Hour  
  48 Hour  
  72 Hour  
  96 Hour  
 1 Week  
 2 Week

\*For TEM Air 3 hr through 6 hr, please call ahead to schedule. \*There is a premium charge for 3 Hour TEM AHERA or EPA Level II TAT. You will be asked to sign an authorization form for this service. Analysis completed in accordance with EMSL's Terms and Conditions located in the Analytical Price Guide.

<b>PCM - Air</b> <input type="checkbox"/> Check if samples are from NY <input type="checkbox"/> NIOSH 7400 <input type="checkbox"/> w/ OSHA 8hr. TWA <b>PLM - Bulk (reporting limit)</b> <input checked="" type="checkbox"/> PLM EPA 600/R-93/116 (<1%) <input type="checkbox"/> PLM EPA NOB (<1%) Point Count <input type="checkbox"/> 400 (<0.25%) <input type="checkbox"/> 1000 (<0.1%) Point Count w/Gravimetric <input type="checkbox"/> 400 (<0.25%) <input type="checkbox"/> 1000 (<0.1%) <input type="checkbox"/> NYS 198.1 (friable in NY) <input type="checkbox"/> NYS 198.6 NOB (non-friable-NY) <input type="checkbox"/> NIOSH 9002 (<1%)	<b>TEM - Air</b> <input type="checkbox"/> 4-4.5hr TAT (AHERA only) <input type="checkbox"/> AHERA 40 CFR, Part 763 <input type="checkbox"/> NIOSH 7402 <input type="checkbox"/> EPA Level II <input type="checkbox"/> ISO 10312 <b>TEM - Bulk</b> <input type="checkbox"/> TEM EPA NOB <input type="checkbox"/> NYS NOB 198.4 (non-friable-NY) <input type="checkbox"/> Chatfield SOP <input type="checkbox"/> TEM Mass Analysis-EPA 600 sec. 2.5 <b>TEM - Water:</b> EPA 100.2 Fibers >10µm <input type="checkbox"/> Waste <input type="checkbox"/> Drinking All Fiber Sizes <input type="checkbox"/> Waste <input type="checkbox"/> Drinking	<b>TEM - Dust</b> <input type="checkbox"/> Microvac - ASTM D 5755 <input type="checkbox"/> Wipe - ASTM D6480 <input type="checkbox"/> Carpet Sonication (EPA 600/J-93/167) <b>Soil/Rock/Vermiculite</b> <input type="checkbox"/> PLM CARB 435 - A (0.25% sensitivity) <input type="checkbox"/> PLM CARB 435 - B (0.1% sensitivity) <input type="checkbox"/> TEM CARB 435 - B (0.1% sensitivity) <input type="checkbox"/> TEM CARB 435 - C (0.01% sensitivity) <input type="checkbox"/> EPA Protocol (Semi-Quantitative) <input type="checkbox"/> EPA Protocol (Quantitative) <b>Other:</b> <input type="checkbox"/>
---	--	---

Check For Positive Stop - Clearly Identify Homogenous Group      Filter Pore Size (Air Samples):  0.8µm  0.45µm

Samplers Name: DeWitt Whitten      Samplers Signature: [Signature]

Sample #	Sample Description	Volume/Area (Air) HA # (Bulk)	Date/Time Sampled
RS-1, 2	Roof Shingle		
RF-1, 2	Roof Felt		
EDC-1, 2	Exterior Door Caulk		
EWL-1, 2	Exterior Window Caulk		
CT-1, 2	Ceiling Tile		
CT-3, 4	Ceiling Tile		
CF-1, 2, 3, 4, 5	Ceiling Finish		
PW-1, 2, B	Plaster Wall Sections		

Client Sample # (s): -      Total # of Samples: 32

Relinquished (Client): [Signature]      Date: 8 March 2013      Time: 12:20

Received (Lab): [Signature]      Date: 3/8/13      Time: 12:20

Comments/Special Instructions: [Signature]      bulk in



**APPENDIX 3**

**LOG OF PHOTOGRAPHS**



1. Structure located at 283 Harold Goodman Circle in Concord, NC.



2. FT-3 Floor Tile Sample – ACM (brown layer) associated with white floor tile.

**EXHIBIT F**  
**GENERAL CONDITIONS**

A. ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Owner. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, or sample forms).

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, (3) between the Owner and Architect, or (4) between any persons or entities other than the Owner and Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards, and workmanship for the Work, and performance of related services.

1.1.7 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract, and Specifications.

## 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

1.2.2 Organization of the Specifications into divisions, sections, and articles and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.2.3 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

## 1.3 CAPITALIZATION

1.3.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses in the document, or (3) the titles of other published documents.

## 1.4 INTERPRETATION

1.4.1 In the interest of brevity, the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

## 1.5 EXECUTION OF CONTRACT DOCUMENTS

1.5.1 The Contract Documents shall be signed by the Owner and Contractor.

1.5.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

## 1.6 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS, AND OTHER INSTRUMENTS OF SERVICE

1.6.1 The Drawings, Specifications, and other documents, including those in electronic form, prepared by the Architect and the Architect’s consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one or more record sets. Neither the Contractor nor any Subcontractor, Sub-subcontractor, nor any material or equipment supplier shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by the Architect or the Architect’s consultants. The Drawings, Specifications, and other documents prepared by the Architect and the Architect’s consultants, and copies thereof furnished to the Contractor, may be considered public record in accordance with North Carolina laws and/or regulations. The Owner reserves the right to make any use of the Instruments of Service that the Owner may deem appropriate in the Owner’s sole discretion. The Owner accepts no responsibility or liability for any use of the Instruments of Service by third parties. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ copyrights or other reserved rights.

## B. ARTICLE 2 OWNER

### 2.1 GENERAL

- 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. Except as otherwise provided in Subparagraph 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.
- 2.1.2 The Contractor acknowledges that liens may not be placed on public property. The Owner reserves the right upon notice of a claim of lien against the Contractor from a Subcontractor to issue all future payments by two-party checks.
- 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER
- 2.2.1 The Owner shall, at the written request of the Contractor, prior to commencement of the Work and thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work.
- 2.2.2 Except for permits and fees, including those required under Subparagraph 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for construction, use or occupancy of permanent structures, or for permanent changes in existing facilities.
- 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.
- 2.2.4 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.
- 2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.
- 2.3 OWNER'S RIGHT TO STOP THE WORK
- 2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.
- 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK
- 2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a three-day period. If the Contractor within such three-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default,

neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## C. ARTICLE 3 CONTRACTOR

### 3.1 GENERAL

3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Contractor.

### 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Subparagraph 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies, or omissions discovered by the Contractor shall be reported promptly to the Architect and Owner as a request for information in such form as the Owner and Architect may require.

3.2.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Owner and Architect, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Owner and Architect.

3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Owner or Architect in response to the Contractor's notices or requests for information pursuant to Subparagraphs 3.2.1 and 3.2.2, the Contractor shall make Claims as provided in Subparagraphs 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Subparagraphs 3.2.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission, or difference and knowingly failed to report it to the Architect and Owner.

### 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract, unless the Owner or Contract Documents give other specific instructions concerning these matters. If the Owner or Contract Documents give specific instructions concerning construction means, methods, techniques,

sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences, or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Owner.

3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors, and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

#### 3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

3.4.2 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

#### 3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

#### 3.6 TAXES

3.6.1 The Contractor shall pay sales, consumer, use, and similar taxes for the Work provided by the Contractor which were enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Contractor shall have no claim to any refund or rebate of taxes to Owner.

#### 3.7 PERMITS, FEES, AND NOTICES

3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.

- 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.
- 3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.
- 3.8 ALLOWANCES
- 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.
- 3.8.2 Unless otherwise provided in the Contract Documents:
- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
  - .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances;
  - .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Clause 3.8.2.1 and (2) changes in Contractor's costs under Clause 3.8.2.2.
- 3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work.
- 3.9 SUPERINTENDENT
- 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing, by personal delivery, U.S. mail, facsimile transmission, or electronic mail. Other communications shall be similarly confirmed on written request in each case.
- 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES
- 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- 3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.
- 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.
- 3.11 DOCUMENTS AND SAMPLES AT THE SITE

- 3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good Order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Owner and Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.
- 3.12 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES
- 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.
- 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Subparagraph 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect without action.
- 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect and Owner without action.
- 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect and Owner.
- 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Owner's or Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Contractor has specifically informed the Owner and Architect in writing of such deviation at the time of submittal and (1) the Owner and Architect have given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect's and Owner's approval thereof.

- 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Owner and Architect on previous submittals. In the absence of such written notice the Architect's and Owner's approval of a resubmission shall not apply to such revisions.
- 3.12.10 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, state law, or local ordinance, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Owner and Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Subparagraph 3.12.10, the Architect will review, approve, or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.
- 3.13 USE OF SITE
- 3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.
- 3.14 CUTTING AND PATCHING
- 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.
- 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.
- 3.15 CLEANING UP
- 3.15.1 The Contractor shall keep the premises, surrounding area, and public streets free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.
- 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.
- 3.16 ACCESS TO WORK

3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

### 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process, or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect.

### 3.18 INDEMNIFICATION

3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, the consultants, agents, elected officials, and employees of either the Owner or Architect or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

3.18.2 In claims against any person or entity indemnified under this Paragraph 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### 3.19 BANKRUPTCY

3.19.1 If any bankruptcy or insolvency proceedings are commenced against the Contractor and are not dismissed within sixty (60) days after service of such proceeding on Contractor, or if Contractor shall file a petition in bankruptcy or for reorganization or to effect a plan or other arrangement with creditors, or be adjudicated bankrupt or make an assignment for the benefit of creditors, or be dissolved or liquidated, or shall admit in writing its inability to pay its debts generally as they become due, or a receiver, trustee or liquidator of Contractor or of all or substantially all of the property of Contractor is appointed in any proceeding brought by Contractor, or if any such receiver, trustee, or liquidator is appointed in any proceeding against Contractor, and any such receiver, trustee or liquidator is not discharged within sixty (60) days after service of such appointment on Contractor, this agreement shall be null and void.

## D. ARTICLE 4 ADMINISTRATION OF THE CONTRACT

### 4.1 ARCHITECT

4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Architect.

4.1.3 If the employment of the Architect is terminated, the Owner shall employ a new Architect.

## 4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

- 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.
- 4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 3.3.1.
- 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.
- 4.2.4 Communications Facilitating Contract Administration. The Owner and Contractor shall keep the Architect informed, share information, and copy correspondence to the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Architect; however communications with the Architect shall not substitute for those items herein specifically requiring notice or approval of both Architect and Owner.
- 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and recommend the amounts due the Contractor and will issue Certificates for Payment in such amounts.
- 4.2.6 The Owner and Architect will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.
- 4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the

Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work within the Owner's budget as provided in Paragraph 7.4.
- 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.
- 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.
- 4.2.11 The Architect will interpret and decide matters concerning performance under and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.
- 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor and will not show partiality to either.

#### 4.3 CLAIMS AND DISPUTES

- 4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment, or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- 4.3.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect, Owner, and the other parties, if any.
- 4.3.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Subparagraph 9.7.1 and Article 14 the Contractor shall proceed diligently with performance of the Contract.
- 4.3.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the

character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.4.

- 4.3.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.6.
- 4.3.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension, or (7) other reasonable grounds, the Claim shall be filed in accordance with this Paragraph 4.3.
- 4.3.7 CLAIMS FOR ADDITIONAL TIME
- 4.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
- 4.3.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.
- 4.3.8 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 10 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.
- 4.3.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner, the applicable unit prices shall be equitably adjusted.
- 4.3.10 Claims for Consequential Damages. The Contractor waives Claims against the Owner for consequential damages arising out of or relating to this Contract. This waiver includes:
- .1 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Subparagraph 4.3.10 shall be deemed to preclude

an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

#### 4.4 RESOLUTION OF CLAIMS AND DISPUTES

4.4.1 Decision of Architect. Claims, excluding those alleging an error or omission by the Architect and those arising under Paragraphs 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

4.4.2 The Architect will review Claims and within ten days of the receipt of the Claim take one or more of the following actions (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

4.4.3 In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision.

4.4.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished, or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or recommend the approval of the Claim in whole or in part.

4.4.5 The Architect will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any recommendations for change in the Contract Sum or Contract Time or both. The Owner shall have the sole authority to make a final decision regarding changes to the Contract Sum or Contract Time.

4.4.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim related to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

4.4.7 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim.

#### 4.5 MEDIATION

4.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 4.3.10, 9.10.4, and 9.10.5 shall, after initial recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation.

4.5.2 The parties shall endeavor to resolve their Claims by mediation. Request for mediation shall be filed in writing with the other party to the Contract. Mediation shall proceed in advance of legal or equitable

proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

- 4.5.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

## **ARTICLE 5 SUBCONTRACTORS**

### **5.1 DEFINITIONS**

- 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

- 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

- 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner and the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply within fifteen (15) working days shall constitute notice of no reasonable objection, unless the Owner submits a written request to extend the review period.

- 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

- 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order may be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required and the increase has been approved by the Owner.

- 5.2.4 The Contractor shall not change a Subcontractor, person, or entity previously selected if the Owner or Architect makes reasonable objection to such substitute.

### **5.3 SUBCONTRACTUAL RELATIONS**

- 5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor,

by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor and Contractor in writing; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and Waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Paragraph 4.3.

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

6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11, and 12.

6.1.5 When the Owner performs construction or operations related to the Project with the Owner's own forces or under a separate contract for a portion of the Work included in the Contractor's original bid, the Contractor is no longer eligible for payment for that portion of the Work.

## 6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner and Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

6.2.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2.5.

6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Subparagraph 3.14.

## 6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and allocate the cost among those responsible.

## A. ARTICLE 7 CHANGES IN THE WORK

### 7.1 GENERAL

7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone, provided that it produces no change in the Owner's budget.

7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

### 7.2 CHANGE ORDERS

- 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect, stating their agreement upon all of the following:
- .1 change in the Work;
  - .2 the amount of the adjustment, if any, in the Contract Sum, including the Architect's fee; and
  - .3 the extent of the adjustment, if any, in the Contract Time.
  - .4 Change Orders that enlarge Owner's financial liability beyond the Owner's budget may be subject to the approval of City Council or City Manager.
- 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.
- 7.3 CONSTRUCTION CHANGE DIRECTIVES
- 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Construction Change Directives that enlarge Owner's financial liability beyond the Owner's budget may be subject to the approval of City Council or City Manager.
- 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
- 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
  - .2 unit prices stated in the Contract Documents or subsequently agreed upon;
  - .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
  - .4 as provided in Subparagraph 7.3.6.
- 7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect and Owner of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- 7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
- 7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect within the Owner's budget or the Architect shall recommend an adjustment to the Contract Sum to Owner. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Architect and Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:
- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
  - .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

7.3.7 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim in accordance with Article 4.

7.3.9 When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

#### 7.4 MINOR CHANGES IN THE WORK

7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

### B. ARTICLE 8 TIME

#### 8.1 DEFINITIONS

8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

8.1.2 The date of commencement of the Work is the date established in the Agreement.

8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Paragraph 9.8.

8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### 8.2 PROGRESS AND COMPLETION

8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in

writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### 8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, or by delay authorized by the Owner pending mediation, or by other causes which the Architect recommends and the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

8.3.3 This Paragraph 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## C. ARTICLE 9 PAYMENTS AND COMPLETION

### 9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments and adjustments related to Work performed in accordance with Paragraph 6.1.5, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

### 9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner and Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

### 9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents.

9.3.1.1 As provided in Subparagraph 7.3.8, such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives, or by Change Orders.

9.3.1.2 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish

the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site for such materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

#### 9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information, and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Owner or Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified.

#### 9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect shall withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect shall also withhold a Certificate for Payment or, because of subsequently discovered evidence, shall nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 3.3.2, because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

9.6 PROGRESS PAYMENTS

- 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.
- 9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.
- 9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.
- 9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6.2, 9.6.3, and 9.6.4.
- 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
- 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner.

9.7 FAILURE OF PAYMENT

- 9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased if approved by Change Order by the amount of the Contractor's reasonable costs of shut-down, delay, and start-up, plus interest as provided for in the Contract Documents.

9.8 SUBSTANTIAL COMPLETION

- 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.
- 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

- 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.
- 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
- 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.
- 9.9 PARTIAL OCCUPANCY OR USE
- 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work, and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.
- 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.
- 9.10 FINAL COMPLETION AND FINAL PAYMENT
- 9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information, and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The

Architect's final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

- 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, and (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases, and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner may, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:
- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
  - .2 failure of the Work to comply with the requirements of the Contract Documents; or
  - .3 terms of special warranties required by the Contract Documents.
- 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

#### D. ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

##### 10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

10.1.2 The Contractor shall provide the Owner a copy of the Contractor's safety manual and procedures.

##### 10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- 10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss.
- 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.
- 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.
- 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.
- 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.
- 10.3 HAZARDOUS MATERIALS
- 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos, petroleum products, perchloroethylene (PERC), or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.
- 10.3.2 The Owner may obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. The Owner will, upon request, furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time may, at the discretion of the Owner, be extended appropriately and the Contract Sum may, at

the discretion of the Owner, be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7.

10.4 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were specifically required by the Contract Documents.

#### 10.5 EMERGENCIES

10.5.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

### ARTICLE 11 INSURANCE AND BONDS

#### 11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase from and maintain in a company or companies with an a.m. best rating of A-VI or better lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' compensation, disability benefit, and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employee;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 claims for bodily injury or property damage arising out of completed operations for a period of time necessary to comply with the North Carolina Statute of Limitations, typically three years; and
- .8 claims involving contractual liability insurance applicable to the Contractor's obligations under Paragraph 3.18.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages and insurance limits must be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to of the execution of the Contract for the Work. These certificates and the insurance policies required by this Paragraph 11.1 shall (1) contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, and (2) name the Owner as an additional insured. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be

furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

## 11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

11.3.3 The Contractor is required to include the Owner as additional insured on all certificates evidencing Contractor's insurance coverage required under Paragraph 11.1, with the exception of the Contractor's Workers' Compensation policy.

## 11.4 PERFORMANCE BOND AND PAYMENT BOND

11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### 12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Owner's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Owner or Architect, be uncovered for the Owner's or Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the Architect or Owner has not specifically requested to examine prior to its being covered, the Architect or Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

### 12.2 CORRECTION OF WORK

#### 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

12.2.1.1 The Contractor shall promptly correct Work rejected by the Owner or Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### 12.2.2 AFTER SUBSTANTIAL COMPLETION

12.2.2.1 In addition to the Contractor's obligations under Paragraph 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and

to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Paragraph 2.4.

- 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.
- 12.2.2.3 The one-year period for correction of Work shall be extended by corrective Work performed by the Contractor only to the extent of the corrective work performed pursuant to this Paragraph 12.2.
- 12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.
- 12.2.5 Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.
- 12.3 **ACCEPTANCE OF NONCONFORMING WORK**
- 12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **13.1 GOVERNING LAW AND VENUE**

- 13.1.1 The Contract shall be governed by the law of North Carolina and enforced in the Courts of Cabarrus County, North Carolina.

### **13.2 SUCCESSORS AND ASSIGNS**

- 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Subparagraph 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.
- 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

- 13.3 WRITTEN NOTICE
- 13.3.1 Written notice shall be deemed to have been duly served if delivered in accordance with the provisions of the Agreement.
- 13.4 RIGHTS AND REMEDIES
- 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.
- 13.4.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.
- 13.5 TESTS AND INSPECTIONS
- 13.5.1 Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Owner and/or Architect may be present for such Procedures. The Owner shall bear costs of tests, inspections, or approvals which do not become requirements until after bids are received or negotiations concluded.
- 13.5.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Subparagraph 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Owner and Architect of when and where tests and inspections are to be made so that the Owner and/or Architect may be present for such procedures. Such costs, except as provided in Subparagraph 13.5.3, shall be at the Owner's expense.
- 13.5.3 If such procedures for testing, inspection, or approval under Subparagraphs 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.
- 13.5.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner and Architect.
- 13.5.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.
- 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.
- 13.6 INTEREST
- 13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
- 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

- 13.7.1 As between the Owner and Contractor:
- .1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date that the warranty period is terminated by the Owner;
  - .2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date that the warranty period is terminated by the Owner; and
  - .3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Paragraph 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **14.1 TERMINATION BY THE CONTRACTOR**

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
- .2 an act of government, such as a declaration of national emergency which requires all Work to be stopped; or
- .3 because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents.

14.1.3 If one of the reasons described in Subparagraph 14.1.1 or 14.1.2 exists, the Contractor may, upon 30 days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit, and damages.

### **14.2 TERMINATION BY THE OWNER FOR CAUSE**

14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations, or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

14.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
  - .2 accept assignment of subcontracts pursuant to Paragraph 5.4; and/or
  - .3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.
- 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE
- 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay, or interrupt the Work in whole or in part for such period of time as the Owner may determine.
- 14.3.2 The Contract Sum and Contract Time may be adjusted at the Owner's discretion for increases in the cost and time caused by suspension, delay, or interruption as described in Subparagraph 14.3.1. No adjustment shall be made to the extent:
- .1 that performance is, was, or would have been so suspended, delayed, or interrupted by another cause for which the Contractor is responsible; or
  - .2 that an equitable adjustment is made or denied under another provision of the Contract.
- 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE
- 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.
- 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:
- .1 cease operations as directed by the Owner in the notice;
  - .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
  - .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
- 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, excluding overhead and profit on the Work not executed.

**EXHIBIT G  
PROJECT SPECIAL PROVISIONS**

**1. GRANT REQUIREMENTS**

The project will be funded by several sources. One which will be out of a federal grant and will require additional paper work for a Quarterly Performance Report as noted in the attached documents as well as Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity; Davis-Bacon Wage Decision for Cabarrus County; and Instructions for MDEIWBE Utilization in Contractor/Subcontractor.

Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this award.

**NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246 AND 41 CFR PART 60-4)**

The following Notice shall be included in, and shall be made a part of all solicitations for offers and bids on all Federal and federally-assisted construction contracts or subcontracts in excess of \$10,000.

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

The goals and timetables for minority and female participation, expressed in percentage terms for the

**Contractor's aggregate workforce** in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade  
**15.7%**

Goals for female participation for each trade  
**6.9%**

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60.4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a) and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed. The Contractor shall provide written notification to the appropriate Regional Office of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any):

City of Concord, Cabarrus County, North Carolina



**EXHIBIT H**

**State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts**

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

(Name of Bidder)

Affidavit of \_\_\_\_\_

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

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

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

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

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

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

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

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



State of North Carolina, County of \_\_\_\_\_

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

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

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

**EXHIBIT H**

**State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.**

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

Affidavit of \_\_\_\_\_

(Name of Bidder)

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

\_\_\_\_\_ contract.  
(Name of Project)

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

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

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

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

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

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



State of North Carolina, County of \_\_\_\_\_

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

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

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

**EXHIBIT H**

**State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by Minority Firms**

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

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

If the portion of the work to be executed by minority businesses as defined in GS143-128.2(g) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

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

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

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

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

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

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

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

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

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

State of North Carolina, County of \_\_\_\_\_

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

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

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



**EXHIBIT H**

**State of North Carolina**

**AFFIDAVIT D – Good Faith Efforts**

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

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

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

(Name of Bidder)

Affidavit of: \_\_\_\_\_

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

(Attach additional sheets if required)

Name and Phone Number	*Minority Category	Work description	Dollar Value

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

Documentation of the Bidder's good faith efforts to meet the goals set forth in these provisions. Examples of documentation include, but are not limited to, the following evidence:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster.
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

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

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

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

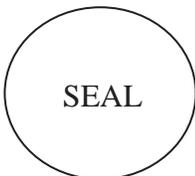
Title: \_\_\_\_\_

State of North Carolina, County of \_\_\_\_\_

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

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

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



## EXHIBIT I

### Federal Labor Standards Provisions U.S. Department of Housing and Urban Development Office of Labor Relations

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#### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the **Copeland Act** (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

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of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

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(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

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the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.5. Compliance with **Copeland Act** requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with **Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

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3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the **Contract Work Hours and Safety Standards Act** which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the **Contract Work Hours and Safety Standards Act**, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

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Previous editions are obsolete Page 5 of 5 form HUD-4010 (06/2009) ref. Handbook 1344.1

**EXHIBIT J  
WAGE DECISION**

General Decision Number: NC130023 08/23/2013 NC23

Superseded General Decision Number: NC20120023

State: North Carolina

Construction Type: Building

County: Cabarrus County in North Carolina.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/04/2013
1	04/12/2013
2	07/26/2013
3	08/23/2013

ELEC0379-009 03/04/2013

	Rates	Fringes
ELECTRICIAN.....	\$ 22.90	13%+5.50

On smokestacks where electrical work performed is above 40 ft. from the ground: \$0.50 per hour additional.

Work from swinging scaffolds, bosun chairs, or raw structural steel: \$0.50 per hour additional.

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IRON0848-005 12/01/2012

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 21.80	9.75

\* PLUM0421-002 07/01/2013

	Rates	Fringes
PLUMBER/PIPEFITTER (Excluding HVAC System Installation).....	\$ 24.85	9.65

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SUNC2011-004 08/24/2011

	Rates	Fringes
BRICKLAYER.....	\$ 19.76	9.18
CARPENTER, Excludes Drywall Hanging, and Form Work.....	\$ 15.57	0.00
CEMENT MASON/CONCRETE FINISHER....	\$ 16.41	0.00

DRYWALL HANGER.....	\$ 13.83	0.00
FORM WORKER.....	\$ 14.09	0.00
HVAC MECHANIC (Installation of HVAC Unit Only, Excludes Installation of HVAC Pipe and Duct).....	\$ 17.36	2.23
LABORER: Common or General.....	\$ 11.88	2.15
LABORER: Landscape & Irrigation.....	\$ 9.13	0.28
LABORER: Pipelayer.....	\$ 13.35	2.80
LABORER: Mason Tender-Brick/Cement/Concrete.....	\$ 12.00	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 16.00	2.48
OPERATOR: Bulldozer.....	\$ 16.00	1.87
OPERATOR: Crane.....	\$ 19.77	4.48
OPERATOR: Forklift.....	\$ 13.86	0.00
OPERATOR: Grader/Blade.....	\$ 15.72	1.49
OPERATOR: Loader.....	\$ 16.17	0.25
PAINTER: Brush, Roller and Spray.....	\$ 14.13	2.88
ROOFER.....	\$ 12.50	0.81
SHEET METAL WORKER (HVAC Duct Installation Only).....	\$ 17.32	1.56
SHEET METAL WORKER, Excludes HVAC Duct and Unit Installation.....	\$ 15.96	1.01
SPRINKLER FITTER (Fire Sprinklers).....	\$ 15.52	0.00

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WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

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Unlisted classifications needed for work not included within  
the scope of the classifications listed may be added after  
award only as provided in the labor standards contract clauses  
(29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

#### Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

#### Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

\* an existing published wage determination

- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
 Wage and Hour Division  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION