

# **PROJECT MANUAL**

**BOILER REPLACEMENT**

**MECHANICAL CONTRACT**

**SUGAR LOAF ELEMENTARY SCHOOL  
DANA ELEMENTARY SCHOOL**

**HENDERSON COUNTY, NC**

**FOR**

**HENDERSON COUNTY PUBLIC SCHOOLS  
HENDERSON COUNTY, NC**

## **OWNER**

**HENDERSON COUNTY  
PUBLIC SCHOOLS  
414 FOURTH AVENUE WEST  
HENDERSONVILLE, NC 28739**

## **CONSULTING ENGINEERS**

**BRITAIN ENGINEERING, INC.  
P.O. BOX 939  
HICKORY, NC 28603  
(828) 328-1813  
BEI NO. 209300**

**APRIL 22, 2026**

**SET NUMBER \_\_\_\_\_**

**HENDERSON COUNTY  
BOILER REPLACEMENT FOR  
SUGAR LOAF ELEMENTARY SCHOOL  
DANA ELEMENTARY SCHOOL  
HENDERSON COUNTY PUBLIC SCHOOLS**

**414 FOURTH AVENUE WEST  
HENDERSONVILLE, NORTH CAROLINA**

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## NOTICE TO BIDDERS

Formal proposals will be received by Henderson County Public Schools up until **3:00 P.M., June 1, 2026** in the Office of Mr. Chad Dillon, Director of Facilities for Henderson County Public Schools at 246 Education Drive, Flat Rock, NC 28731, for the Mechanical Contract:

BOILER REPLACEMENT FOR  
SUGAR LOAF ELEMENTARY SCHOOL  
DANA ELEMENTARY SCHOOL

This will be a public bid opening. Bid packages may be delivered to the following address by the specified time or mailed to:

Mr. Brian Cotton – Henderson County  
Capital Projects Superintendent  
246 Education Drive  
Flat Rock, NC 28731

Bids must be received by in person or by mail before the specified time above.

All bids must contain all other documentation required with the bid including Bonds on the attached forms and MBE documentation in a separate envelope, to be opened and verified before the bid will be opened.

**The Mechanical Contractor is the Prime coordinating contractor for this project. All work including demolition, structural reinforcing and electrical work shall be in the Mechanical Contract. The Mechanical Contractor is therefore responsible for assuring that all work is complete in the time frame specified. All liquidated damages shall the responsibility of the Mechanical Contractor.**

**Note that this a Formal Bid for Henderson County Public Schools. Pursuant to 2 CFR 200.321 and Henderson County Public Schools Procurement 8305-R1, sealed bids received from small, minority-owned and women-owned businesses for discrete portions of the work or that propose alternative delivery schedules will be considered, when economically feasible.**

**This project consists of boiler replacements at (2) two schools listed above. The electrical for each boiler is to be disconnected, and then reconnected as required. The new boiler shall be reconnected to the school systems existing building automation system.**

Complete plans and specifications for this project can be obtained from **BRITAIN ENGINEERING, INC.**, during normal office hours located at 56 3<sup>rd</sup> St. N.W., downtown Hickory, NC - mailing address is Post Office Box 939, Hickory, North Carolina 28603, telephone number is (828) 328-1813. Complete plans and specifications will be emailed to contractors and subcontractors wishing to bid the project. Hard copies will not be provided but contractor may print as many copies as they may need for their bidding process.

Public Liability and Workman's Compensation Insurance is required in the amounts stipulated in the specifications.

See General Conditions, Article 15 concerning contingency cash allowances.

See General Conditions for Project schedule.

A Mandatory Pre-bid meeting at Flat Rock Middle School was held on **May 18, 2025 at 1:00 PM.** Any and all questions shall be addressed to Brittain Engineering, Inc. The existing bid list of bidders that attended the Mandatory Pre-bid meeting are the only contractors allowed to Re-bid this project.

The Owner reserves the right to reject any or all bids and bidders, to waive informalities and to determine the low bidder in case of tie bids.

This 22nd Day of April, 2026.

### **Henderson County Public Schools**

Mr. Brian Cotton - Capital Projects Superintendent  
Mr. Chad Dillon - Director of Facilities

**EJCDC  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is dated as of the \_\_\_\_ day of \_\_\_\_ in the year 2026 by and between Henderson County Board of Education (hereinafter called OWNER) and \_\_\_\_\_ (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK.**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Mechanical Contract

BOILER REPLACEMENT FOR:  
SUGAR LOAF ELEMENTARY SCHOOL  
DANA ELEMENTARY SCHOOL

**Article 2. ENGINEER.**

The Project has been designed by **BRITAIN ENGINEERING, INC.**  
**P.O. Box 939**  
**Hickory, NC 28603**

who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**Article 3. CONTRACT TIME.**

3. 1. The Work will be substantially completed on or before December 1, 2026 and completed and ready for final payment in accordance with the General Conditions on or before December 18, 2026.

3.2. Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER One Thousand dollars (\$ 1,000 ) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. Liquidated damages shall be assessed for each school site at which the Work is not timely substantially complete as provided herein. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER Five Hundred dollars (\$ 500.00 ) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

**Article 4. CONTRACT PRICE.**

4. 1. OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

Base Bid               \$ \_\_\_\_\_

Alternate Bids       \$ \_\_\_\_\_

Total Contract       \$ \_\_\_\_\_

**Article 5. PAYMENT PROCEDURES.**

CONTRACTOR shall submit Applications for Payment in accordance with Article 5.1 below. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 25th day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5. 1. 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold.

95% of Work completed. If Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed.

95% of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER).

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as ENGINEER shall determine, or OWNER may withhold.

5.2. Final Payment. Upon final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER.

**Article 6. INTEREST.**

All moneys not paid within 45 days of becoming due as provided in the General Conditions shall bear interest at the rate of one percent (1%) per month, pursuant to applicable law at the place of the Project.

**Article 7. CONTRACTOR'S REPRESENTATIONS.**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7. 1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work,

site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7.2. CONTRACTOR has studied carefully all drawings, specifications and on site physical conditions and accepts the determination of the extent of the technical data contained in such drawings, specifications and on site physical conditions on which CONTRACTOR is entitled to reply.

7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

7.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the General Conditions.

7.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

#### **Article 8. CONTRACT DOCUMENTS.**

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

8. 1. This Agreement (pages 1 to 5 inclusive).
- 8.2. Exhibits to this Agreement (pages \_\_\_ to \_\_\_ inclusive).
- 8.3. Performance and other Bonds, identified as exhibits "A" and consisting of \_\_\_ pages.
- 8.4. Notice of Award.
- 8.5. General Conditions (pages 1 to 7 inclusive).
- 8.7. Specifications bearing the title BOILER REPLACEMENT FOR SUGAR LOAF ELEMENTARY SCHOOL & DANA ELEMENTARY SCHOOL FOR HENDERSON COUNTY PUBLIC SCHOOLS, HENDERSONVILLE, NC and consisting of Divisions and Sections, as listed in table of contents thereof.
- 8.8. Drawings, consisting of a cover sheet and sheets numbered C-1, M-1 thru M-3, E1 thru E-2 inclusive with each sheet bearing the following general title:

CLASSROOM HVAC EQUIPMENT  
FLAT ROCK MIDDLE SCHOOL

8.9. Addenda numbers \_\_\_ to \_\_\_ inclusive.

8.10. CONTRACTOR's Bid (pages \_\_\_ to \_\_\_ inclusive) marked exhibit "B"

[Attach Bid Form only in special circumstances.]

8.11. Documentation submitted by CONTRACTOR prior to Notice of Award (pages \_\_\_ to \_\_\_, inclusive).

8.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the General Conditions.

8.13. The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

**Article 9. MISCELLANEOUS.**

9.1. Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

9.4 This agreement shall be interpreted pursuant to the laws of the State of North Carolina. The venue for any dispute arising hereunder shall be Superior Court in Henderson County, North Carolina.

**Article 10. OTHER PROVISIONS.**

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on \_\_\_\_\_

**OWNER** Henderson County Public Schools

**CONTRACTOR** \_\_\_\_\_

414 Fourth Avenue West

\_\_\_\_\_

Henderson, NC 28739

\_\_\_\_\_

By \_\_\_\_\_  
**(CORPORATE SEAL)**

By \_\_\_\_\_  
(Printed Name and Title)

**HENDERSON COUNTY PUBLIC SCHOOLS**

\_\_\_\_\_  
Corporate Secretary  
**License No.** \_\_\_\_\_  
**(CORPORATE SEAL)**

\_\_\_\_\_  
By: Mr. Mark Garrett, Superintendent

Attested:

\_\_\_\_\_  
Mr. Bernard Sochia, Chief Finance Officer  
Henderson County Public Schools

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

\_\_\_\_\_  
Bernard Sochia, Chief Finance Officer

Date: \_\_\_\_\_

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STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

I, \_\_\_\_\_, a Notary Public for Henderson County, North Carolina,  
Certify that \_\_\_\_\_ personally came before me this day and acknowledged  
that he is the Superintendent of Henderson County Public Schools and that by authority duly given and as the  
act of  
the corporation the forgoing instrument was signed in its name by him, sealed with its corporate seal, and  
attested by \_\_\_\_\_ as Chief Finance Officer.

Witness my hand and Notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2026.

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

Commission Expires: \_\_\_\_\_

## GENERAL CONDITIONS

### ARTICLE 1 - CERTIFICATE OF CONTRACTOR'S BOND AND INSURANCE COVERAGE

- 1.1 See Addendum B, Bonds and Insurance.
- 1.2 Omitted.
- 1.3 All the above insurance shall be maintained by the Contractor for the duration of construction and shall not be discontinued until the Owner accepts the work covered by this contract and extends his insurance to this installation. Each coverage certificate shall contain a provision that coverage will not be terminated without thirty (30) days prior written notice to the owner. Such notice shall be delivered by certified United States Postal Service.

Henderson County Public Schools shall be listed as Additional Insured on all Insurance certificates.

Copies of Certificates will not be accepted and originals must come from the Insurer (Fax copy from Insurer will be accepted in emergency situations).

No work will be performed until a Certificate of Insurance is provided to Henderson County Public Schools. The Certificate shall be sent to the attention of the Purchasing Agent.

### ARTICLE 2 -PERMITS, CODES AND INSPECTIONS

- 2.1 The Contractor shall, unless otherwise specifically stated give all notices, make arrangements for, obtain and pay for all permits necessary for the execution of work under this contract.
- 2.2 Local, State and National Code requirements shall govern when plans and specifications are in conflict with or require less than applicable codes. However, plans and specifications shall govern when their requirements meet and exceed the code requirements.
- 2.3 The Contractor shall not knowingly install any work in violation of codes, laws and/or ordinances even though as shown on the contract drawings without first requesting clarification and specific written instructions to proceed. The Contractor shall notify the Engineer prior to executing the work if there is any question regarding code compliance or shall remove and replace, at no cost to the Owner, any work which

the Contractor has knowingly installed in violation of applicable codes and good practice relative to his trade.

- 2.4 See detailed specifications for specific inspections and certification required for this contract.

### ARTICLE 3 - DRAWINGS AND SPECIFICATIONS

- 3.1 The Contractor is cautioned to read the entire project specifications and the entire set of project working drawings to assure that no reference to work by the Contractor is overlooked and to assure an understanding of the division of work between the various trades and/or contracts.
- 3.2 The submission of a bona fide bid will be considered as evidence that the Contractor has inspected the job site and understands the conditions under which the work of this contract must be fulfilled. No extra will be allowed for any condition at the site encountered during execution of this contract which could have been determined by a thorough on-site inspection prior to submittal of the bid.
- 3.3 Where equipment, materials, articles or any particular standard is referred to in the specifications, the Engineer shall decide the question of quality and/or acceptability of alternate "equal" offered based upon the requirements of this contract and performance capacities and other pertinent information supplied to him by the Contractor.
- 3.4 Working drawings and specifications are not complete without engineering consultation. Certain field adjustments and corrections of conflicts are to be expected. The Engineer recognizes this fact and makes his services available to the Contractor on this project at all times to answer questions of interpretation or intent and to make any and all decisions wherever problems of any nature arise during course of construction.
- 3.5 The Contractor is to furnish and install all materials called for in these specifications and accompanying drawings, or both. All items of material, labor or equipment not specifically mentioned by the drawings or specifications, but necessary to complete the work which is obviously intended under this contract shall be furnished as if specified.
- 3.6 The plans are diagrammatic in nature and it may occur that certain dimensions or locations of equipment or materials require certain changes in the drawings and specifications. In the event that such changes are necessary, they shall be made by the Contractor without expense to the Owner, provided that such changes do not require furnishing more materials or performing more labor than the true intent of

the drawings and specifications demand.

#### ARTICLE 4 - CONSTRUCTION UTILITIES AND SERVICES

- 4.1 Electrical Power: The Contractor shall be allowed to use power from the existing building power at no expense.
- 4.2 Water: The Contractor shall be allowed to use water from the existing building water.
- 4.3 Sanitary Facilities: The Contractor shall provide portable toilets for use during construction for all contractors and employees.

#### ARTICLE 5 - OWNER'S CONTINUED USE OF EXISTING FACILITIES

- 5.1 The work shall be carried on in a manner which will cause as little inconvenience as possible to the Owner in his normal use of the property and existing facilities. All work will be performed during the 2026 summer school year with close coordination with the owner as negotiated prior to work beginning. Contractors shall work closely with School personnel to ensure building is ready for heat when needed or as negotiated prior to work beginning.
- 5.2 The Contractor shall provide and maintain adequate protection coverings over work which might be injured during construction. The Contractor shall be held responsible for all injury or damage to and any such work which may result from his neglecting to provide protection regardless of the cause of damage.
- 5.3 The Contractor shall instruct his workmen that access to parts of the existing buildings other than those in which the Contractor's work is involved and parts that he has been specifically authorized to use, is strictly prohibited.
- 5.4 Jessica Lunsford Act: Under North Carolina law, certain sex offenders are prohibited from coming onto school campuses. Contractor agrees to conduct an annual check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all its employees whose job involves direct interaction with students as part of the job. The Owner prohibits any personnel listed on such registries from being on any property owned or operated by the Owner and from having any direct interaction with students. As a term of the Agreement, said checks must be performed by the Contractor and reported to the Owner's Superintendent or designee if Contractor's employees will be working directly with students. Under provisions set forth in the Jessica Lunsford Act under North Carolina law, the signature below certifies that neither Contractor nor any employee

or agent of Contractor is listed as a sex offender on the NC Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program, and/or the National Sex Offender Registry.

#### ARTICLE 6 - ACCESS TO THE BUILDING

- 6.1 Standard operable doors and windows generally will be adequate for personnel, material and equipment entrance into and egress from the building areas. The Contractor shall determine for himself the adequacy of such openings.
- 6.2 Special care shall be exercised in the removal of any hardware, door, door frame, window panel, window frame and the like. Any such removal shall be made only with prior approval and shall be restored to "as found" condition as soon as the access opening is no longer required.
- 6.3 The Contractor shall when equipment minimum dimensions exceed available openings, obtain prior permission and cut and patch such additional opening as is required. See Article entitled "CUTTING AND PATCHING."

#### ARTICLE 7 - CUTTING AND PATCHING

- 7.1 The Contractor shall be responsible for trenching, cutting and patching existing pavement, cutting and patching existing structures and removal and replacement of existing "built-in" furniture, ceilings, cabinets and the like. See also Specifications, Section 15500, Part 1, General, Paragraph 1.01.6.
- 7.2 No structural member shall be cut or altered without prior written approval.  
  
Cutting of pavement and building materials shall be straight and true (or round) parallel to the main building lines. Cuts shall be made at natural joints or so as to look like a natural joint when finished.
- 7.3 Patching shall be done by craftsmen skilled in the craft required. Materials shall be the same as that being patched or as nearly so as is available today. Patchwork shall be of the same quality and detail as the original work, such as: paving, base gravel, thermal insulation, caulking, reinforcing rod, flashing, painting, glazing, grass and the like.
- 7.4 Excavations shall be backfilled to twelve inches (12") above piping with clean soil free of stones, broken concrete, bricks or other hard, sharp objects. The remaining fill shall be placed in twelve inch (12") layers with each layer being thoroughly tamped. The top surface shall be hand raked and fine graded to match the surrounding areas. Previously grassed areas, disturbed by the execution of this

contract, shall be fertilized and seeded to establish a dense uniform stand of grass. Areas where grass does not develop shall be reseeded.

#### ARTICLE 8 - MAINTAIN- WORK AREA AND SITE CLEAN

- 8.1 Furniture, books, Owner's equipment and floors of building interior area shall be covered with "drop" cloths or sheet polyethylene whenever drilling, cutting or knocking of hole in existing construction is in progress.
- 8.2 All construction activities debris and waste materials shall be removed from the job site at least once a week and the site left clear of all materials except tools and new materials and equipment to be built into the project or used in completion of the contract work. Materials and equipment shall be stored in a neat orderly manner. Areas within the building shall be cleaned daily.

#### ARTICLE 9 - FINAL CLEAN-UP

- 9.1 The Owner reserves the right, should the Contractor fail to clean the site and areas of execution of this contract to the satisfaction of the Owner within a reasonable length of time after completion of the contract work (seven (7) calendar days), to hire a third party to do such final clean up as is required and deduct from the contract amount the actual cost to the Owner for this cleanup.

#### ARTICLE 10 - MAINTENANCE AND GUARANTEE PERIOD

- 10.1 The Installing Contractor shall guarantee all material and equipment provided under this contract and all workmanship in connection with the execution of this contract including the activation and initial operation of the system for a period of **TWELVE (12) MONTHS** from initial activation and placement of the system in normal operation. See Specifications for extended Chiller compressor warranty.
- 10.2 The Contractor shall at no cost to the Owner replace immediately any item or component of equipment or material and/or correct any faulty workmanship which becomes evident within this guarantee period.

#### ARTICLE 11 - OSHA REQUIREMENTS

- 11.1 The Contractor shall comply with and be responsible to see that all his Subcontractors engaged in the execution of this contract comply with all applicable portions of the OSHA regulations.

## ARTICLE 12 - BUILDING SECURITY

- 12.1 The Contractor shall make arrangements with the Owner's Representative at the beginning of the project to establish a plan to maintain the normal order of building security during the execution of this contract work. The Contractor shall see that the Owner's normal building security practices are not violated by an action of the Contractor, his Employees or his Subcontractors. The Contractor shall see that all portions of the building to which he has had access are properly locked or otherwise secured each time he leaves the work site.

## ARTICLE 13 - CLOSE-OUT CERTIFICATES

- 13.1 The Contractor shall deliver to the Architect/Engineer, prior to or in conjunction with his requests for final payment, the original and three (3) copies each of:

Inspection Certificates previously herein specified.

Affidavit of Payment of Debts and Claims (AIA Form G706).

Affidavit of Release of Liens (AIA Form G706A)

Consent of Surety to Final Payment (AIA Form G707)

Contractor's Letter of Guarantee.

## ARTICLE 14 - COMPLETION TIME

- 14.1 The Contractor shall commence work as soon as the Notice to Proceed is issued and as soon as school closes for summer break. Due to the equipment delivery issues, we understand that all work cannot be completed during the summer but the expectation is that as much work as possible is to be completed before students return from summer break. Work to be completed during the summer break includes asbestos removal by others, joist reinforcing, installation of new curbs along with all roof work, power wiring to unit locations, gas piping to unit locations and as much ductwork as possible inside the Gyms in order to begin the school fall opening by August 9, 2024 or as negotiated prior to beginning of work. Note that contractor may schedule work for six days per week but **NO WORK IS ALLOWED ON SUNDAYS**. A school calendar will be provided for the contractor's information. If coordinated with the owner, the contractor may begin measuring and coordinating work before school goes out in the spring but no contractors may onsite during testing. A testing schedule will be provided also.

## ARTICLE 15 - CONTINGENCY CASH ALLOWANCES

- 15.1 The Contractor shall include in his lump sum contract price a Cash Allowance in the amount below stated to be used for any contingency which might develop as work under this contract progresses.
- 15.2 This Cash Allowance will be used only for contract work scope changes which are identified, the cost negotiated and properly authorized in writing by formal Change Order to the contract before execution of the work.
- 15.3 All of the unused portions of this Cash Allowance remaining at the completion of work under this contract will be removed from the contract amount by formal written change order.
- 15.4 The Mechanical Contractor shall include a Cash Contingency Allowance of Five Percent (5%) of the bid price in the Base Bid contract price.

## ARTICLE 16 – DESCRIPTION OF WORK

- 16.1 Refer to the Bid Documents for Base Bid and Alternates. All work is included in the Mechanical Contract including all general construction work and electrical work.

## ARTICLE 17 – PERFORMANCE AND PAYMENT BONDS

- 17.1 See Addendum B, Bonds and Insurance.

## ARTICLE 18 – HAZARDOUS MATERIALS

- 18.1 The Owner is not aware of any hazardous materials where work is to be performed. However should any Contractor working on the project encounter any suspect materials, he shall stop work immediately and notify the Engineer and the Owner. The Owner will be responsible for any survey and abatement. The Contractor shall not disturb any material that may be suspect.

## ARTICLE 19 – LIQUIDATED DAMAGES

- 19.1 Due to the nature of this project and the fact that school must start back the stipulated time, liquidated damages shall be assessed to the Mechanical Contractor if the project is not complete by the stipulated time of August 9, 2024 or as negotiated prior to beginning of work. The amount to be assessed is **ONE THOUSAND DOLLARS (\$1,000.00) PER DAY**. Since the Mechanical Contractor is the prime coordinating contractor, he is responsible for assigning portions to each

of his subcontractors that may have contributed to the delay. **THEREFORE IT IS EXTREMELY IMPORTANT FOR THE MECHANICAL CONTRACTOR TO SELECT HIS SUBCONTRACTORS BASED ON PERFORMANCE OF THEIR RESPECTIVE SCOPE OF WORK.**

#### ARTICLE 20 – MINORITY PARTICIPATION

- 20.1 See attached **GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR THE PARTICIPATION IN STATE CONSTRUCTION CONTRACTS.** Each contractor shall submit the appropriate forms with their proposals.

#### ARTICLE 21 – SALES TAX FORMS

- 21.1 The Prime Coordinating contractor shall submit monthly sale tax reports similar to the one attached for the owners use.

#### ARTICLE 22 – SUBSTITUTIONS

- 22.1 Substitution Request Forms are bound with these specifications. Each product submitted as a substitute by the Prime bidder (Mechanical Contractor) shall be accompanied by the completed and signed copy of the Substitution Request Form. Such requests shall include the name of the material or equipment for which it is substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for the evaluation. The Engineer's decision of approval or disapproval of the proposed substitution shall be final.

## **HENDERSON COUNTY PUBLIC SCHOOLS STANDARD TERMS & CONDITIONS**

The Contract, Henderson County Public School's Standard Terms and Conditions, and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

1. **E-Verify**: As required by N.C.G.S. § 143-133.3, Contractor certifies that it verifies the work authorization of each of its employees under the requirements of N.C.G.S. Article 2 of Chapter 64 ("E-Verify"). If Contractor utilizes a subcontractor of any tier, Contractor shall require all subcontractor(s) of any tier to comply with E-Verify requirements.
2. **Jessica Lunsford Act**: Under North Carolina law, certain sex offenders are prohibited from coming onto school campuses. Contractor agrees to conduct an annual check of the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program and the National Sex Offender Registry for all of its employees whose job involves direct interaction with students as part of the job. Henderson County Public Schools prohibits any personnel listed on such registries from being on any property owned or operated by Henderson County Public Schools and from having any direct interaction with students. As a term of this Contract, said checks must be performed by the Contractor and reported to Henderson County Public School's Superintendent or designee, if Contractor's employees will be working directly with students. **Under provisions set forth in the Jessica Lunsford Act under North Carolina law, Contractor certifies that by entering into a contract with Henderson County Public Schools, neither Contractor nor any employee or agent of Contractor, is listed as a sex offender on the N.C. Sex Offender and Public Protection Registration Program, the N.C. Sexually Violent Predator Registration Program, and/or the National Sex Offender Registry.**
3. **Termination**: The Contract may be terminated by either party hereto upon thirty (30) days written notice to the other. In the event the Contract is terminated pursuant to the provisions of this paragraph, Henderson County Public Schools shall have no obligation to compensate Contractor for services which have not been performed. Unless otherwise agreed by the Parties in writing, Contractor shall continue to provide services to Henderson County Public Schools during the thirty (30) day notice period, at the same rate of service performed by Contractor during the thirty (30) days prior to receipt of notice. If Contractor fails to do so, Henderson County Public Schools may retain any monies otherwise due to Contractor.
4. **Independent Contractor**: It is understood that Contractor executes the Contract as an independent contractor and that Contractor shall have the exclusive control over the

means, methods and details of fulfilling its obligation under the Contract. The Contract is not intended and shall not be construed to create the relationship of principal-agent, master-servant, employer-employee, partnership, joint venture, joint enterprise, or association between the Parties or any of their owners, officers, directors, members, managers, partners, representatives, employees or agents. Contractor agrees to perform and discharge all obligations of an independent contractor under any and all laws, whether existing or in the future in any way pertaining to the tasks hereunder, including but not limited to Social Security laws, Workers' Compensation Insurance, income taxes, and State Employment Insurance taxes or contributions; and Contractor will hold Henderson County Public Schools harmless against all such laws. Neither federal nor state local income tax, nor payroll tax of any kind shall be withheld or paid by Henderson County Public Schools on behalf of the Contractor or the employees of Contractor. No Worker's Compensation Insurance shall be obtained by Henderson County Public Schools concerning Contractor or Contractor's employees.

5. Audit: During and after the term of the contract, the State Auditor, or any Auditor contracted by Henderson County Public Schools, may be given access to persons and records of the Contractor that are generated as a result of, or are related to, the Contract for purposes of verifying accounts and data affecting fees or performance, as provided in G.S. § 143-49(9). Contractor shall keep all records for 3 years after the end of the contract period. The following entities may audit the records of this contract during and after the term of the contract to verify accounts and data affecting fees or performance: 1. The State Auditor. 2. The internal auditors of the affected department, agency or institution. 3. The Joint Legislative Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the Commission.

6. Discrimination: If applicable, Contractor and any subcontractors employed by Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

7. Family Education Rights and Privacy Act: Contractor acknowledges that Henderson County Public Schools is subject to the Family Education Rights and Privacy Act (FERPA) (20 U.S.C. § 1232G; 34 C.F.R. 99). To the extent Contractor generates or maintains education records that are subject to FERPA, Contractor will comply with applicable FERPA requirements. Contractor will not access or make any disclosures of student education records to third parties without prior notice to and consent from Henderson County Public Schools or as otherwise provided by the law or the Contract. For purposes of the Contract, Henderson County Public Schools designates Contractor as a school official with a legitimate educational interest in the

education records of participating students to the extent access to Henderson County Public School's records is required by Contractor to carry out its services.

If, Henderson County Public Schools provides Contractor with personal identifiers as listed in N.C.G.S. §132-1.10 and in N.C.G.S. §14-113.20(b) or any other legally confidential information including "personally identifiable information" from student education records as defined by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and the implementing regulations in Title 34, Part 99 of the Code of Federal Regulations ("FERPA"), Contractor hereby certifies that collection of this information is necessary for the performance of Contractor's duties and responsibilities under the Contract. Contractor further certifies that it will maintain the confidential and exempt status of any Social Security number information, as required by N.C.G.S. §132-1.10(c)(1), and that it will not re-disclose personally identifiable information pursuant to FERPA or by any other State or Federal laws.

8. FERPA Electronically Stored Data Compliance: Contractor is expressly prohibited from selling or trading any education records or personally identifiable information acquired under the Contract. Furthermore, Contractor agrees not to attempt to re-identify students from aggregated data. Further, Contractor will not use any personally identifiable information or education records to advertise or market to students of Henderson County Public Schools or their parents. Any personally identifiable information and education records held by Contractor pursuant to the Contract will be made available to Henderson County Public Schools upon request.

Contractor will store and process all data using appropriate administrative, physical, and technical safeguards to secure personally identifiable information and education records from unauthorized access, disclosure, and use. Contractor will conduct periodic risk assessments and remediate any identified security vulnerabilities in a timely manner. Contractor will also have a written incident response plan, to include prompt notification to Henderson County Public Schools in the event of a security or privacy incident, as well as procedures for responding to a breach of data. Contractor agrees to share its incident response plan upon request. Contractor shall, for all personally identifiable data and education records in its possession and in the possession of any subcontractors, or agents to which it has transferred data as permitted herein, destroy or de-identify such data when such data is no longer needed to perform the Contract.

If Contractor experiences a security breach concerning any information covered by the Contract, and such breach is covered by N.C.G.S. §75.61(14), then Contractor will (a) fully comply with Contractor's obligations under the N.C. Identity Theft Protection Act, (b) immediately notify Henderson County Public Schools with the information listed in N.C.G.S. §75-65(d)(1-4), and (c) fully cooperate with the Board in carrying out its obligations under said Identity Theft Protection Act. Contractor will indemnify Henderson County Public Schools for any breach of confidentiality or failure of its responsibilities to protect confidential information, and for cost of notification of affected persons as a result of its accidental or negligent release of

personally identifiable information or education records provided to Contractor pursuant to the Contract.

9. North Carolina Public Records Law: Contractor acknowledges that Henderson County Public Schools is subject to the requirements of North Carolina's Public Records Law ("NCPRL"), N.C.G.S. § 132-1, *et. seq.* The Contract and any related documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received by Henderson County Public Schools in connection with the transaction of the Contract may be considered a "public record," subject to disclosure under the NCPRL. Henderson County Public Schools is under no obligation to notify Contractor prior to its compliance of its duties under NCPRL.
10. Liability Insurance: It is understood and agreed between the parties that each person performing services under the Contract shall be covered by Contractor for all actions, omissions, injuries or other liabilities occurring during the performance of the services, to the same extent as if such events occurred on Contractor's property.

During the term of the contract, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Contractor shall provide and maintain the following coverage and limits:

**Worker's Compensation** – The Contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is subcontracted, the contractor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.

**Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.

**Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

Providing and maintaining adequate insurance coverage is a material obligation of the Contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Contractor

shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the Contractor's liability and obligations under the contract.

The Contractor shall furnish a Certificate of Insurance as proof of the above coverages to Henderson County Public Schools prior to the effective date of Contract. Certificate will contain provision that the insurance coverages cannot be canceled, reduced in amount or coverage eliminated without 30 days written notice to Henderson County Public Schools. Owner's Protective insurance must list Henderson County Public Schools as a "Named Insured" as its interest may appear. Henderson County Public Schools reserves the right to require higher or lower insurance limits where warranted. Henderson County Public Schools shall maintain its usual and customary insurance coverage and/or coverage agreement.

11. Ownership of Work Product: All works authored, produced, developed, or reduced to practice by Contractor for the benefit of Henderson County Public Schools during its provision of the services in the Contract shall be owned by Henderson County Public Schools and Henderson County Public Schools shall have all common law, statutory, and other reserved rights therein.
12. Indemnification: **CONTRACTOR, FOR ITSELF AND ITS EMPLOYEES, AGENTS, VOLUNTEERS AND PARTICIPANTS, DOES HEREBY INDEMNIFY AND HOLD HARMLESS, HENDERSON COUNTY PUBLIC SCHOOLS, ITS BOARD MEMBERS, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COSTS, ATTORNEYS' FEES AND LIABILITY ARISING OUT OF OR RESULTING FROM CONTRACTOR'S PERFORMANCE HEREUNDER AND HEREBY ASSUMES THE RISK OF INJURY OR LIABILITY AND AGREES NOT TO SUE HENDERSON COUNTY PUBLIC SCHOOLS FOR ANY INJURY OR LIABILITY ARISING OUT OF OR RESULTING FROM CONTRACTOR'S PERFORMANCE HEREUNDER.**
13. Anti-Trust: The Contract has been entered into in compliance with state and federal antitrust laws. Contractor certifies by entering into the Contract:
  - a) That the Contractor and/or any of its Principals is not presently debarred, per the State's website (<http://ncadmin.nc.gov/government-agencies/procurement/contracts/debarred-vendors>) and Federal Excluded Parties List ([www.sam.gov/portal/public/SAM](http://www.sam.gov/portal/public/SAM)); or suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into the Contract by any federal agency or by any department, agency or political subdivision of the State.

- b) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
  - c) The Contractor shall provide immediate written notice to Henderson County Public Schools if, at any time, Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  - d) The certification in this section is a material representation of fact upon which reliance is placed by Henderson County Public Schools in making the Contract. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to other remedies available to Henderson County Public Schools, then Henderson County Public Schools may terminate the Contract for default.
14. Travel Expenses: Unless otherwise stated in the Contract, the agreed upon price for the services provided herein includes travel expenses, accommodation expenses and any and all other expenses, costs, and remuneration (including, but not limited to, equipment, tools, and supplies) the Parties have agreed to unless otherwise provided for in the Contract.
15. Affiliation: Contractor shall not represent itself as affiliated with or endorsed by Henderson County Public Schools without the prior written consent. Contractor shall not use any of Henderson County Public School's logos, images, trademarks, or copyrights without prior written consent. The Contract shall not be used for advertising by Contractor without prior approval of Henderson County Public Schools.
16. Assignment: Unless agreed to in writing by Henderson County Public Schools, the Contract is not assignable. Any attempt to assign the Contract to any third party shall be null and void and shall relieve Henderson County Public Schools of any further liability under the Contract.
17. Compliance with Law & Board Policy: Contractor agrees to comply with all federal and State laws, rules, regulations, administrative requirements, and Board of Education Policies and Procedures applicable to its provision of the services. Contractor declares that it has complied with all federal, state, and local laws and regulations regarding business permits, certificates, and licenses that may be required to carry out the work to be performed under the Contract.
18. Attorney's Fees: In the event of a dispute between the Parties regarding the enforceability of the Contract, each party shall be responsible for its own attorney's fees.

19. Choice of Law: The Parties agree that the Contract was entered into in the State of North Carolina and that the laws of North Carolina shall govern the Contract, as to interpretation and performance. It is further agreed that the place of the Contract, its situs and forum, will be in the county in North Carolina where Henderson County Public School's Central Office is located.
20. Venue: The Parties agree that the proper venue for any claims brought hereunder is in the county in North Carolina where Henderson County Public School's Central Office is located.
21. Force Majeure: Neither party shall be responsible to the other for any losses resulting from the failure to perform any terms or provisions of the Contract if the party's failure to perform is attributable to war, riot or other disorder, strike or other work stoppage; fire; flood; storm; illness; pandemic, communicable disease, or any other act not within the control of the party whose performance is interfered with, and which, by reasonable diligence, such party is unable to prevent. However, Henderson County Public Schools will be entitled to a refund for fees paid on account of services not rendered by Contractor including any and all deposits.
22. Non-Appropriation: Henderson County Public Schools agrees to duly request the appropriation of funds from its funding sources for all payment amounts specified in the Contract through its annual funding request at levels consistent with the prior fiscal year. Notwithstanding anything to the contrary herein, if the funds that Henderson County Public Schools requests for a fiscal year are reduced or not appropriated, Henderson County Public Schools will not be obligated to pay amounts due beyond the end of the last fully funded fiscal year. If a non-appropriation event occurs, Henderson County Public Schools will notify Contractor, the Contract will terminate at the end of the last fiscal year for which funds were fully appropriated, and Henderson County Public Schools will not be in default or material breach of the Contract.
23. Integration & Amendment: The Contract is fully integrated and represents the entire understanding between the Parties. The Contract may be modified or amended only by written instruments signed by both Parties. Unless explicitly stated in the Contract, nothing contained in the Contract is intended to benefit any third party. The Contract shall be deemed to have been drafted by both Parties and any ambiguities in the construction of the Contract shall not be construed solely against Henderson County Public Schools.
24. Severability: The Contract is severable and if any provisions of the Contract are deemed invalid or illegal by a court of competent jurisdiction, the other remaining provisions of the Contract shall remain valid and enforceable.
25. Execution: The Contract may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

26. Authority: Both Parties executing the Contract acknowledge that they have authority to bind their respective party to the terms and conditions set forth in the Contract.
27. Sovereign Immunity: Notwithstanding any other term or provision in the Contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign or governmental immunity or other State or federal constitutional or statutory provision or principle that otherwise would be available to Henderson County Public Schools under applicable law.
28. Pre-Audit Certification: Execution of the Pre-Audit Certification on the Contract and/or purchase order is a condition precedent to the effectiveness of the signatures
29. Acknowledgment: The undersigned represents and acknowledges that they have carefully read the entire Contract (and any attachments), understand the Contract (and any attachments) and its consequences, and knowingly and voluntarily enter into the Contract.
30. Iran Divestment / Divestment From Companies that Boycott Israel: By acceptance of the Agreement, Contractor affirms that it, or any Subcontractor hired by Contractor, is not listed on the *Final Divestment List* and *Parent and Subsidiary List* located at <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>, which was created by the N.C. State Treasurer pursuant to N.C.G.S. 147-86.58. It is the responsibility of each Contractor to monitor its Subcontractor's compliance with this restriction.
31. Notice: Any notice required or desired to be given under the Contract shall be deemed given if in writing and sent by certified mail to the principal office of Henderson County Public Schools at: 414 Fourth Avenue West  
Hendersonville, NC 28739  
Attention: Purchasing Agent
32. Subcontracting: Contractor shall not subcontract any portion of the work to be performed under this Contract without prior written approval of Henderson County Public Schools.
33. Performance and Default: If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this Contract, Henderson County Public Schools shall have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of, Henderson County Public Schools, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to Henderson

County Public Schools for damages sustained by Henderson County Public Schools by virtue of any breach of this Contract, and Henderson County Public Schools may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due Henderson County Public Schools from such breach can be determined.

In case of default by the Contractor, Henderson County Public Schools may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

In addition, in the event of default by the Contractor under this contract, Henderson County Public Schools may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts Henderson County Public Schools has with the Contractor, and de-bar the Contractor from doing future business with Henderson County Public Schools.

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, Henderson County Public Schools may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with it, and de-bar the Contractor from doing future business.

34. Payment Terms: Payment terms are Net not later than 30 days after receipt of correct invoice(s) or acceptance of services, whichever is later, or in accordance with any special payment schedule identified in this Contract. Henderson County Public Schools is responsible for all payments to the Contractor under the contract.
35. Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse Henderson County Public Schools for loss of damage of such property.
36. Criminal Background Checks: Contractor certifies that as of the date of the signed contract, or acceptance of a purchase order, background checks have been performed for all personnel who will have any type of direct contact with the students and staff of Henderson County Public Schools in the performance of this contract. Contractor shall provide a complete list of names and job related duties of all personnel that will be assigned in any capacity to handle Henderson County Public School's account. Copies of background checks for all personnel will also be included. Contractor shall notify Henderson County Public Schools immediately and provide required information should changes in personnel occur, or if any existing personnel is charged of any criminal activity.
37. Taxes: Any applicable taxes shall be invoiced as a separate line item. North Carolina G.S. § 143.59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet on of the conditions of G.S. § 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to

purchasers in North Carolina. Conditions under G.S. § 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the Contract documents, the vendor certifies that it and all of its affiliates, collect(s) the appropriate taxes.

38. Warranty: Contractor warrants to Henderson County Public Schools that all equipment furnished will be new, of good material and workmanship, and agrees to replace promptly any part or parts which by reason of defective material or workmanship shall fail under normal use, free of negligence or accident, for a minimum period of twelve (12) months from date of receipt. Such replacement shall include all parts, labor, and transportation cost to the location where equipment is down, free of any charge to Henderson County Public Schools.
39. Federal Uniform Administrative Requirements: Federal Funds. The Contractor shall make all necessary inquiries to correctly identify all sources of funding for Contract. If the source of funds for Contract is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable), unless a more stringent state or local law or regulation is applicable: Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland “Anti-Kickback” Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324).



414 Fourth Avenue West, Hendersonville, NC 28739-4261  
Mark R. Garrett, Superintendent

Board of Public Education  
Dr. Kathy Revis, Chairperson  
Robert Bridges, Vice Chairperson  
Beth Campbell  
Blair Craven  
Shelia Dale  
Amy Lynn Holt  
Alyssa Norman

**HENDERSON COUNTY PUBLIC SCHOOLS  
E-VERIFY COMPLIANCE STATEMENT**

North Carolina General Statutes (143-133.3) prohibits a board or governing body of the State to enter into a contract unless the Contractor, and the Contractor’s Subcontractors under the contract, comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

As the Contractor, I understand that E-Verify is a federal 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. **Contractor is defined as:** Any person, business entity, or other organization that transacts business in this State and employs 25 or more employees in this State.

Contractor is a person, business entity, or other organization that transacts business in this State and employs 25 or more employees in this State. (mark Yes or No)

- a. YES \_\_\_\_\_
- b. NO \_\_\_\_\_ (If no, not required to use E-Verify)

As the Contractor, I understand that I must use E-Verify after hiring an employee to work in the United States, to verify the work authorization of the employee, and retain the record of the verification of work authorization while the employee is employed and for one year thereafter.

If I provide services to Henderson County Public Schools utilizing a Subcontractor, I will ensure compliance by the Subcontractor with the requirements of E-Verify as listed in Article 2 of Chapter 64 of the General Statutes.

By signing below, I am attesting that as the Contractor, I am in compliance with E-Verify requirements, and that I am authorized to sign this certification:

Contractor (Company) Name: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Printed Name and Title



414 Fourth Avenue West, Hendersonville, NC 28739-4261  
Mark R. Garrett, Superintendent

Board of Public Education  
Dr. Kathy Revis, Chairperson  
Robert Bridges, Vice Chairperson  
Beth Campbell  
Blair Craven  
Shelia Dale  
Amy Lynn Holt  
Alyssa Norman

**CERTIFICATION OF ELIGIBILITY  
Under the Iran Divestment Act and  
Divestment from Companies that Boycott Israel Act**

**IRAN DIVESTMENT ACT:**

Pursuant to N.C.G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State.

**DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL:**

Pursuant to N.C.G.S. 147-86.81 through 147-86.83, a company that has been designated by the North Carolina State Treasurer as engaged in the boycott of Israel is ineligible to contract with the State or any political subdivision of the State. Contracts valued at less than \$1,000.00 are exempt from this restriction.

Vendor does hereby certify, to the following:

1. that the vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the vendor has not been designated by the N.C. State Treasurer as engaged in the boycott of Israel;
2. that the vendor shall not utilize on any contract with the State agency any subcontractor that is identified on either the Final Divestment List or engaging in the boycott of Israel;
3. that the undersigned is authorized by the Vendor to make this Certification.

Vendor: \_\_\_\_\_

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

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name & Title

**The State Treasurer’s Final Divestment List can be found on the State Treasurer’s website at the address:<https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx> and will be updated every 180 days.**

STATE OF NORTH CAROLINA  
 COUNTY SALES AND USE TAX REPORT  
 SUMMARY TOTALS AND CERTIFICATION

CONTRACTOR: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

PROJECT: \_\_\_\_\_ FOR PERIOD: \_\_\_\_\_

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

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

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

Sworn to and subscribed before me,

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 \_\_\_\_\_ Signed

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

My Commission Expires: \_\_\_\_\_  
 \_\_\_\_\_ Print or Type Name of Above

Seal  
 NOTE:  
 This certified statement may be subject to audit



# GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN STATE CONSTRUCTION CONTRACTS

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on State construction projects in the amount of \$300,000 or more. The legislation provides that the State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each project for which a contract or contracts are awarded. These requirements are published to accomplish that end.

## **SECTION A: INTENT**

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

## **SECTION B: DEFINITIONS**

1. **Minority** - a person who is a citizen or lawful permanent resident of the United States and who is:
  - a. Black, that is, a person having origins in any of the black racial groups in Africa;
  - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
  - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
  - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
  - e. Female
2. **Minority Business** - means a business:
  - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
  - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. **Socially and economically disadvantaged individual** - means the same as defined in 15 U.S.C. 637. "Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities". "Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged".
4. **Public Entity** - means State and all public subdivisions and local governmental units.
5. **Owner** - The State of North Carolina, through the Agency/Institution named in the contract.
6. **Designer** - Any person, firm, partnership, or corporation, which has contracted with the State of North Carolina to perform architectural or engineering, work.
7. **Bidder** - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. **Contract** - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.

9. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the State of North Carolina to perform construction work or repair.
10. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

### **SECTION C: RESPONSIBILITIES**

#### **1. Office for Historically Underutilized Businesses, Department of Administration (hereinafter referred to as HUB Office).**

The HUB Office has established a program, which allows interested persons or businesses qualifying as a minority business under G.S. 143-128.2, to obtain certification in the State of North Carolina procurement system. The information provided by the minority businesses will be used by the HUB Office to:

- a. Identify those areas of work for which there are minority businesses, as requested.
- b. Make available to interested parties a list of prospective minority business contractors and subcontractors.
- c. Assist in the determination of technical assistance needed by minority business contractors.

In addition to being responsible for the certification/verification of minority businesses that want to participate in the State construction program, the HUB Office will:

- (1) Maintain a current list of minority businesses. The list shall include the areas of work in which each minority business is interested.
- (2) Inform minority businesses on how to identify and obtain contracting and subcontracting opportunities through the State Construction Office and other public entities.
- (3) Inform minority businesses of the contracting and subcontracting process for public construction building projects.
- (4) Work with the North Carolina trade and professional organizations to improve the ability of minority businesses to compete in the State construction projects.
- (5) The HUB Office also oversees the minority business program by:
  - a. Monitoring compliance with the program requirements.
  - b. Assisting in the implementation of training and technical assistance programs.
  - c. Identifying and implementing outreach efforts to increase the utilization of minority businesses.
  - d. Reporting the results of minority business utilization to the Secretary of the Department of Administration, the Governor, and the General Assembly.

#### **2. State Construction Office**

The State Construction Office will be responsible for the following:

- a. Furnish to the HUB Office a minimum of twenty-one days prior to the bid opening the following:
  - (1) Project description and location;
  - (2) Locations where bidding documents may be reviewed;
  - (3) Name of a representative of the owner who can be contacted during the advertising period to advise who the prospective bidders are;
  - (4) Date, time and location of the bid opening.
  - (5) Date, time and location of prebid conference, if scheduled.
- b. Attending scheduled prebid conference, if necessary, to clarify requirements of the general statutes regarding minority-business participation, including the bidders' responsibilities.
- c. Reviewing the apparent low bidders' statutory compliance with the requirements listed in the proposal, that must be complied with, if the bid is to be considered as responsive, prior to award of contracts. The State reserves the right to reject any or all bids and to waive informalities.
- d. Reviewing of minority business requirements at Preconstruction conference.

- e. Monitoring of contractors' compliance with minority business requirements in the contract documents during construction.
- f. Provide statistical data and required reports to the HUB Office.
- g. Resolve any protest and disputes arising after implementation of the plan, in conjunction with the HUB Office.

### 3. Owner

Before awarding a contract, owner shall do the following:

- a. Develop and implement a minority business participation outreach plan to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction between minority businesses and non-minority businesses.
- b. Attend the scheduled prebid conference.
- c. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the public entity for public construction or repair work and minority businesses that otherwise indicated to the Office for Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:
  - 1. A description of the work for which the bid is being solicited.
  - 2. The date, time, and location where bids are to be submitted.
  - 3. The name of the individual within the owner's organization who will be available to answer questions about the project.
  - 4. Where bid documents may be reviewed.
  - 5. Any special requirements that may exist.
- d. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.
- e. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
- f. Review, jointly with the designer, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders' proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award to the State Construction Office.
- g. Evaluate documentation to determine good faith effort has been achieved for minority business utilization prior to recommendation of award to State Construction Office.
- h. Review prime contractors' pay applications for compliance with minority business utilization commitments prior to payment.
- i. Make documentation showing evidence of implementation of Owner's responsibilities available for review by State Construction Office and HUB Office, upon request

### 4. Designer

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

- a. Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
- c. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
- d. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders' proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing Good Faith Efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.

- e. During construction phase of the project, review "MBE Documentation for Contract Payment" – (Appendix E) for compliance with minority business utilization commitments. Submit Appendix E form with monthly pay applications to the owner and forward copies to the State Construction Office.
- f. Make documentation showing evidence of implementation of Designer's responsibilities available for review by State Construction Office and HUB Office, upon request.

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

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

- a. Attend the scheduled prebid conference.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification will include the following:
  - (1) A description of the work for which the subbid is being solicited.
  - (2) The date, time and location where subbids are to be submitted.
  - (3) The name of the individual within the company who will be available to answer questions about the project.
  - (4) Where bid documents may be reviewed.
  - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

If there are more than three (3) minority businesses in the general locality of the project who offer similar contracting or subcontracting services in the specific trade, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.

- d. During the bidding process, comply with the contractor(s) requirements listed in the proposal for minority participation.
- e. Identify on the bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
- f. Make documentation showing evidence of implementation of Prime Contractor, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by State Construction Office and HUB Office, upon request.
- g. Upon being named the apparent low bidder, the Bidder shall provide one of the following: (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. The contractor(s) shall identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in Article 31 of the General Conditions of the Contract to facilitate payments to the subcontractors.
- i. The contractor(s) shall submit with each monthly pay request(s) and final payment(s), "MBE Documentation for Contract Payment" – (Appendix E), for designer's review.
- j. During the construction of a project, at any time, if it becomes necessary to replace a minority business subcontractor, immediately advise the owner, State Construction Office, and the Director of the HUB Office in writing, of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
- k. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit subbids from minority businesses.
- l. It is the intent of these requirements apply to all contractors performing as prime contractor and first tier subcontractor under construction manager at risk on state projects.

6. Minority Business Responsibilities

While minority businesses are not required to become certified in order to participate in the State construction projects, it is recommended that they become certified and should take advantage of the

appropriate technical assistance that is made available. In addition, minority businesses who are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

**SECTION D: DISPUTE PROCEDURES**

It is the policy of this state that disputes that involves a person's rights, duties or privileges, should be settled through informal procedures. To that end, minority business disputes arising under these guidelines should be resolved as governed under G.S. 143-128(g).

**SECTION E:** These guidelines shall apply upon promulgation on state construction projects. Copies of these guidelines may be obtained from the Department of Administration, State Construction Office, (physical address) 301 North Wilmington Street, Suite 450, NC Education Building, Raleigh, North Carolina, 27601-2827, (mail address) 1307 Mail Service Center, Raleigh, North Carolina, 27699-1307, phone (919) 733-7962, Website: <http://interscope2.doa.state.nc.us/main.htm>.

**SECTION F:** In addition to these guidelines, there will be issued with each construction bid package provisions for contractual compliance providing minority business participation in the state construction program.

## **MINORITY BUSINESS CONTRACT PROVISIONS (CONSTRUCTION)**

### **APPLICATION:**

The **Guidelines for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts** are hereby made a part of these contract documents. These guidelines shall apply to all contractors regardless of ownership. Copies of these guidelines may be obtained from the Department of Administration, State Construction Office, (physical address) 301 North Wilmington Street, Suite 450, NC Education Building, Raleigh, North Carolina, 27601-2827, (mail address) 1307 Mail Service Center, Raleigh, North Carolina, 27699-1307, phone (919) 733-7962, Website: <http://interscope2.doa.state.nc.us/main.htm>.

### **MINORITY BUSINESS SUBCONTRACT GOALS:**

The goals for participation by minority firms as subcontractors on this project have been set at 10%.

The bidder must identify on its bid (by using the Identification of Minority Business Participation Form provided in the bid document), the minority businesses that will be utilized on the project with corresponding total dollar value of the bid. In addition, the bidder must submit with its bid, either an affidavit (Affidavit A) listing good faith efforts **or** an affidavit (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).

The lowest responsible, responsive bidder must provide Affidavit C, that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal.

**OR**

Provide Affidavit D, that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, **with documentation of Good Faith Effort, if the percentage is not equal to the applicable goal.**

**OR**

Provide Affidavit B, which includes sufficient information for the State to determine that the bidder does not customarily subcontract work on this type project.

**The above information must be provided as required. Failure to submit these documents is grounds for rejection of the bid.**

## **MINIMUM COMPLIANCE REQUIREMENTS:**

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

In determining whether a contractor has made Good Faith Efforts, the State will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts. Good Faith Efforts include:

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

**APPENDIX E**

**MBE DOCUMENTATION FOR CONTRACT PAYMENTS**

Prime Contractor/Architect: \_\_\_\_\_

Address & Phone: \_\_\_\_\_

Project Name: \_\_\_\_\_

Pay Application #: \_\_\_\_\_ Period: \_\_\_\_\_

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

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT TO BE PAID	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

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

Date: \_\_\_\_\_

Approved/Certified By: \_\_\_\_\_

Name

\_\_\_\_\_

Title

\_\_\_\_\_

Signature

*XII. SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT*



# 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 \_\_\_\_\_

# 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 \_\_\_\_\_

# 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)

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

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

Name and Phone Number	*Minority Category	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 \_\_\_\_\_

**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 \_\_\_\_\_

**APPENDIX E**

**MBE DOCUMENTATION FOR CONTRACT PAYMENTS**

Prime Contractor/Architect: \_\_\_\_\_

Address & Phone: \_\_\_\_\_

Project Name: \_\_\_\_\_

Pay Application #: \_\_\_\_\_ Period: \_\_\_\_\_

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

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT PAID THIS MONTH	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

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

Date: \_\_\_\_\_ Approved/Certified By: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

**SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT**

(Revised on 3/14/2003)

**MECHANICAL**

**CONTRACT PROPOSAL**

Mr. Brian Cotton  
Capital Projects Superintendent – Henderson County  
246 Education Drive  
Flat Rock, NC 28731

**RE: Contract Proposal - Mechanical  
BOILERER REPLACEMENT FOR  
SUGAR LOAF ELEMENTARY SCHOOL  
DANA ELEMENTARY SCHOOL**

Gentlemen:

The undersigned, as individual or authorized agent for the Bidder, hereby declares that the only person, persons, firm or corporation having interest in this proposal as individual or principal or principals in the firm or corporation is named herein and that no other person than herein mentioned has any interest in this proposal; that it is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

We acknowledge receipt of the below listed addenda to the contract drawings, specifications and documents and have duly considered them in preparing this proposal:

<b><u>Identification No. and Date</u></b>	<b><u>Date Received</u></b>
_____	_____
_____	_____
_____	_____

(If none has been received, state: "None Received")

The Bidder proposes and agrees if this proposal is accepted, to contract with the Henderson County Public Schools, in the form of contract specified, to furnish all necessary materials, equipment and supervision necessary for BOILER REPLACEMENT FOR SUGAR LOAF ELEMENTARY SCHOOL & DANA ELEMENTARY SCHOOL for Henderson County Public Schools, 414 Fourth Avenue West, Hendersonville, NC 28739 in accordance with drawings, specifications and contract documents dated April 22, 2026 to the full and entire satisfaction of Henderson County Public Schools and its authorized agents and **BRITAIN ENGINEERING, INC.**, Consulting Engineers, with the definite understanding that no money will be allowed or credited for additional or omitted work except as specifically authorized in writing as set forth in the General Conditions of the

Contract for Construction for the Lump Sum of:

**Mechanical Contract Base Bid:**

\_\_\_\_\_  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**Alternate Bid #1 Dana Elementary School Boiler Replacement:**

\_\_\_\_\_  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**Projected Schedule Timeline:**

Start Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

The Contractor specifically agrees to and accepts the contract completion date per **ARTICLE 14 of the GENERAL CONDITIONS.**

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_ 2026.

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

(Legal name of person, firm or corporation submitting Proposal)

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

\_\_\_\_\_

(Signature and title of person, firm or corporation authorized to obligate the person, firm or corporation making this proposal)

\_\_\_\_\_

\_\_\_\_\_

(Address)

\_\_\_\_\_

(Contractor's N. C. License Number): \_\_\_\_\_

**NOTE: Remove Proposal Form from the specification binder**

**SUBSTITUTION REQUEST FORM**

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

**COMPANY NAME:** \_\_\_\_\_

We hereby submit for your consideration the following products instead of the specified item for the above project:

<u>SECTION</u>	<u>PARAGRAPH</u>	<u>SPECIFIED ITEM</u>
_____	_____	_____
_____	_____	_____

**PROPOSED SUBSTITUTION:**

Attach complete technical data including laboratory tests, if applicable.

Include complete information on changes to drawings and/or specifications which proposed substitution will require for it proper installation.

Submit with request all necessary samples and substantiating data to prove equal quality and performance to that which is specified. PLEASE INDICATE ALL COMPARATIVE INFORMATION, ie. Material weights, gauges, finishes, strength of materials, insulation, anchorage , power requirements, etc. Clearly mark manufacturer's literature to indicate equality in performance.

**COMPLETE THE FOLLOWING:**

1. Does the substitution affect dimensions shown on the drawings?

YES \_\_\_\_\_ NO \_\_\_\_\_ (If Yes, clearly indicate changes)

2. Will the undersigned pay for any changes to the building design, including architectural and engineering changes caused by the substitution?

3. What effect does the substitution have on other trades?

4. What effect does substitution have on applicable code requirements?

\_\_\_\_\_

5. Differences between proposed substitution and specified items are?

\_\_\_\_\_

6. Manufacturer's guarantee of proposed versus specified items are?

SAME \_\_\_\_\_ DIFFERENT \_\_\_\_\_ (EXPLAIN) \_\_\_\_\_

Certification of equal performance and assumption of liability for equal performance.

The undersigned states that the function, appearance and quality are equivalent or superior to the specified item.

Submitted by:

Firm: \_\_\_\_\_

Date: \_\_\_\_\_

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

Phone: \_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_\_

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

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

Signature must be by person having authority to legally bind his firm to the above terms. Failure to provide legally binding signature will result in retraction of approval.

FOR USE BY ENGINEER

\_\_\_\_\_ Approved

\_\_\_\_\_ Received to late

\_\_\_\_\_ Approved with Notes

\_\_\_\_\_ Disapproved

REMARKS: \_\_\_\_\_

\_\_\_\_\_

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

DATE: \_\_\_\_\_