

GUILFORD COUNTY CONTRACT 90260088

# Standard Form of Agreement Between Owner and Design- Builder – Cost Plus Fee with an Option for a Guaranteed Maximum Price

**Document No. 530**

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Washington, D.C.



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# Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee with an Option for a Guaranteed Maximum Price

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

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This **AGREEMENT** is made as of the 6<sup>th</sup> day of November in the year of 2025, by and between the following parties, for services in connection with the Project identified below:

**OWNER:**

Guilford County  
301 West Market Street  
Greensboro, NC 27402

**DESIGN-BUILDER:**

Holt Brothers Construction LLC  
421 Fayetteville Street Suite 1300  
Raleigh, NC 27601

**PROJECT:**

Upfits at 201 S. Greene Street  
201 S. Greene Street  
Greensboro NC

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

## **Article 1**

### **Scope of Work**

**1.1** Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

## **Article 2**

### **Contract Documents**

**2.1** The Contract Documents are comprised of the following:

**2.1.1** All written modifications, amendments, minor changes and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2022 Edition) ("General Conditions of Contract");

**2.1.2** The GMP Exhibit referenced in Section 6.6.1.1 herein or, if applicable, the GMP Proposal accepted by Owner in accordance with Section 6.6.2 herein;

**2.1.3** This Agreement, including all exhibits (list, for example, performance standard requirements, performance incentive arrangements, markup exhibits, allowances, unit prices or exhibit detailing offsite reimbursable personnel) but excluding, if applicable, the GMP Exhibit;

**2.1.4** The General Conditions of Contract; and

**2.1.5** Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract.

## **Article 3**

### **Interpretation and Intent**

**3.1** Design-Builder and Owner, prior to execution of the Agreement (and again, if applicable, at the time of acceptance of the GMP Proposal by Owner in accordance with Section 6.6.2 hereof), shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents, for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement or, if applicable, prior to Owner's acceptance of the GMP Proposal.

**3.2** The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement, or if applicable, after Owner's acceptance of the GMP Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

**3.3** Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

**3.4** If Owner's Project Criteria contain design specifications: (a) Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any performance specifications; and (b) Design-Builder shall be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

**3.5** The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

## **Article 4**

### **Ownership of Work Product**

**4.1 Work Product.** All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights and/or patents, subject to the provisions set forth in Sections 4.2 through 4.5 below.

#### **4.2 Owner's Limited License upon Project Completion and Payment in Full to Design-Builder.**

Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder: (a) grants Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project; and (b) transfers all ownership and property interests, including but not limited to any intellectual property rights, copyrights and/or patents, in that portion of the Work Product that consists of architectural, engineering and other design elements and specifications that are unique to the Project. The parties shall specifically designate those portions of the Work Product for which ownership in the Work Product shall be transferred. Such grant and transfer are conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on Owner's obligation to provide the indemnity set forth in Section 4.5 below.

**4.3 Owner's Limited License upon Owner's Termination for Convenience or Design-Builder's Election to Terminate.** If Owner terminates this Agreement for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 4.2 above, conditioned on the following:

**4.3.1** Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party, and on Owner's obligation to provide the indemnity set forth in Section 4.5 below, and

**4.4 Owner's Limited License upon Design-Builder's Default.** If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section

4.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 4.3 above.

**4.5 Owner's Indemnification for Use of Work Product.** If Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 4, Owner shall defend, indemnify and hold harmless such Indemnified Parties from and against any and all claims, damages, liabilities, losses and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of the Work Product.

## **Article 5**

### **Contract Time**

**5.1 Date of Commencement.** The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

**5.2 Substantial Completion and Final Completion.**

**5.2.1**

The parties agree that the definition for Substantial Completion set forth in Section 1.2.19 of the General Conditions of Contract is hereby modified to read as follows:

*"Substantial Completion is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project for its intended purposes, provided, however, that Substantial Completion shall be deemed to have been achieved no later than the date of issuance of a Temporary Certificate of Occupancy issued by the local building official."*

**5.2.2** Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.8 of the General Conditions of Contract.

**5.2.3** All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

**5.3 Time is of the Essence.** Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

**5.4 Liquidated Damages.** Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. The parties intend that the Liquidated Damages constitute compensation, i.e. A reasonable estimate of the anticipated or actual harm that might arise from the Design-Builder's breach, and not a penalty Design-Builder agrees that if Substantial Completion is not attained by To \_\_\_\_\_ Be Determined within Guaranteed Maximum Price Proposal (TBD) days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner Five Hundred Dollars (\$500.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date.

**5.8 Owner's Review Time.** The parties have established the following maximum and minimum amount of time for Owner to review Design Submissions and the Project Schedule or any updates thereto unless the parties agree in writing otherwise.

**5.8.1** Owner shall have a minimum of 10 business days of receipt by Owner to review all Design Submissions, the Project Schedule, and any updates thereto.

## **Article 6**

### **Contract Price**

#### **6.1 Contract Price.**

**6.1.1** Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") equal to Design-Builder's Fee (as defined in Section 6.2 hereof) plus the Cost of the Work (as defined in Section 6.3 hereof), subject to any GMP established in Section 6.6 hereof and any adjustments made in accordance with the General Conditions of Contract.

#### **6.2 Design-Builder's Fee.**

**6.2.1** Design-Builder's Fee shall be:

☒ Five percent (5%) of the Cost of the Work, as adjusted in accordance with Section 6.2.2 below.

The cost of the design portion of this contract shall be per Exhibit A attached.

**6.2.2** Design-Builder's Fee will be adjusted as follows for any changes in the Work:

**6.2.2.1** For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of Five percent (5 %) of the additional Costs of the Work incurred for that Change Order, plus any other markups set forth in Exhibit None hereto.

**6.2.2.2** For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

☒ An amount equal to the sum of: (a) Two and one half percent (2.5%) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee); plus (b) any other markups set forth in Exhibit None hereto applied to the direct costs of the net reduction.

**6.3 Cost of the Work.** The term Cost of the Work shall mean costs reasonably and actually incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

**6.3.1** Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site; provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market

rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.

**6.3.2** Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

**6.3.3** Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are identified in Exhibit A and performing the function set forth in said Exhibit. The reimbursable costs of personnel stationed at Design-Builder's principal or branch offices shall include a Five percent (5%) markup to compensate Design-Builder for the Project-related overhead associated with such personnel.

**6.3.4** Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions, and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 6.3.1 through 6.3.3 hereof.

**6.3.5** The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.

**6.3.6** Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

**6.3.7** Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise its best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

**6.3.8** Costs, including transportation, inspection, testing, storage, and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work.

**6.3.9** Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.

**6.3.10** Costs of removal of debris and waste from the Site.

**6.3.11** The reasonable costs and expenses incurred in establishing, operating, and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

**6.3.12** Rental charges and the costs of transportation, installation, minor repairs, and replacements, dismantling and removal of temporary facilities, machinery, equipment, and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

**6.3.13** Premiums for insurance and bonds required by this Agreement or the performance of the Work.

**6.3.14** All fuel and utility costs incurred in the performance of the Work.

**6.3.15** Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work.

**6.3.16** Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

**6.3.17** Deposits which are lost, except to the extent caused by Design-Builder's negligence.

**6.3.18** Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

**6.3.19** Accounting and data processing costs related to the Work.

**6.3.20** Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

#### **6.4 Allowance Items and Allowance Values.**

**6.4.1** Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the GMP Exhibit or GMP Proposal and are included within the GMP.

**6.4.2** Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

**6.4.3** No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

**6.4.4** The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

**6.4.5** Whenever the actual cost for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.4.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

#### **6.5 Non-Reimbursable Costs.**

**6.5.1** The following shall not be deemed as costs of the Work:

**6.5.1.1** Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 6.3.1, 6.3.2 and 6.3.3 hereof.

**6.5.1.2** Overhead and general expenses, except as provided for in Section 6.3 hereof, or which may be recoverable for changes to the Work.

**6.5.1.3** The cost of Design-Builder's capital used in the performance of the Work.

**6.5.1.4** If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

## **6.6 The Guaranteed Maximum Price ("GMP").**

### **6.6.1 GMP Established Upon Execution of this Agreement.**

**6.6.1.1** Design-Builder guarantees that it shall not exceed the GMP of To Be Determined Dollars (\$TBD). Documents used as a basis for the GMP shall be identified in an exhibit to this Agreement ("GMP Exhibit"). Design-Builder does not guarantee any specific line item provided as part of the GMP and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Builder agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents. *(While the GMP Exhibit will be developed in advance or concurrently with the execution of this Agreement, it is recommended that such exhibit include the items set forth in Section 6.6.2.1 below, to ensure that the basis for the GMP is well-understood.)*

**6.6.1.2** The GMP includes a Contingency in the amount of To Be Determined Dollars (\$TBD). Design Builder shall include a line item in the GMP for its "Contingency" which shall be used to reimburse the Design Builder for costs reasonably incurred in meeting its obligations under this Contract but not specifically included in any line item in the GMP Amendment. Such costs may include not otherwise specified as reimbursable under the Contract provided those costs have not been incurred as a result of the Design Builder's negligence, wrongful acts, or willful misconduct. The Contingency is available to enable the Design Builder to be paid as part of the Cost of the Work for items such as, without limitation to:

- (a) Costs reasonably inferable from the Construction Documents and unanticipated or unforeseen;
- (b) Abnormal or difficult field conditions resulting in additional costs to perform the Work;
- (c) Unanticipated market conditions affecting the cost or availability of labor or materials;
- (d) Overtime and acceleration costs to meet the Project schedule;
- (e) Bidder and trade contractor buyouts, default, or deficiencies;
- (f) Interface and coordination omissions between the work of subcontractors;
- (g) Correcting nonconforming, defective, or damaged Work which the Design Builder has been unable to recover the costs from the culpable party; and
- (h) other losses not covered by insurance which is available for Design-Builder's exclusive use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price. The Design-Builder's Contingency is not available to Owner for changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents.

Design-Builder shall provide Owner notice of all anticipated charges against the Contingency and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the

upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

**Request for Use of Contingency.** No part of the Contingency shall be used by the Design Builder without first submitting a written request to the Owner and obtaining the Owner's written approval, which shall not be unreasonably withheld or delayed. The request for funds shall specify:

- (a) The amount requested;
- (b) Reasonable detail of the nature and history of the additional cost;
- (c) The reason the cost was not originally included in the GMP as part of the Cost of the Work; and
- (d) Why the cost is not otherwise recoverable from another source, such as from a subcontractor or from insurance proceeds.
- (e) Any impact on the schedule of project completion and impacts to general conditions.

**Owner's Contingency.** The Owner's Contingency in the amount of [NUMBER IN WORDS] Dollars (\$[NUMBER]) consists of funds under the exclusive control of the Owner. The Owner's Contingency is not part of the GMP and is not held for the benefit of the Design Builder nor are the funds available for use by the Design Builder. The Owner alone has discretion to determine whether to allocate funds from the Owner's Contingency to changes in the scope of Work or such other changes for which the Design Builder is entitled to receive a change order under

## **6.6.2 GMP Established after Execution of this Agreement.**

**6.6.2.1 GMP Proposal.** If requested by Owner, Design-Builder shall submit a GMP Proposal to Owner which shall include the following, unless the parties mutually agree otherwise:

**6.6.2.1.1** A proposed GMP, which shall be the sum of:

- i. Design-Builder's Fee as defined in Section 6.2.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 6.3 hereof, inclusive of any Design-Builder's Contingency as defined in Section 6.6.1.2 hereof; and
- iii. If applicable, any prices established under Section 6.1.2 hereof.

**6.6.2.1.2** The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the GMP Proposal;

**6.6.2.1.3** A list of the assumptions and clarifications made by Design-Builder in the preparation of the GMP Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

**6.6.2.1.4** The Scheduled Substantial Completion Date upon which the proposed GMP is based, to the extent said date has not already been established under Section 5.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based;

**6.6.2.1.5** If applicable, a list of Allowance Items, Allowance Values and a statement of their basis;

**6.6.2.1.6** If applicable, a schedule of alternate prices;

**6.6.2.1.7** If applicable, a schedule of unit prices;

**6.6.2.1.8** If applicable, a statement of Additional Services which may be performed but which are not included in the GMP and which, if performed, shall be the basis for an increase in the GMP and/or Contract Time(s); and

**6.6.2.1.9** The time limit for acceptance of the GMP Proposal.

**6.6.2.2** Review and Adjustment to GMP Proposal. After submission of the GMP Proposal, Design-Builder and Owner shall meet to discuss and review the GMP Proposal. If Owner has any comments regarding the GMP Proposal or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the GMP Proposal.

**6.6.2.3** Acceptance of GMP Proposal. If Owner accepts the GMP Proposal, as may be amended by Design-Builder, the GMP and its basis shall be set forth in an amendment to this Agreement.

**6.6.2.4** Failure to Accept the GMP Proposal. If Owner rejects the GMP Proposal or fails to notify Design-Builder in writing on or before the date specified in the GMP Proposal that it accepts the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

**6.6.2.4.1** Owner may suggest modifications to the GMP Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted, and the parties shall proceed in accordance with Section 6.6.2.3 above;

**6.6.2.4.2** Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 6.1 hereof without a GMP, in which case all references in this Agreement to the GMP shall not be applicable: or

**6.6.2.4.3** Owner may terminate this Agreement for convenience in accordance with Article 8 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 8.2 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall have the right to (a) continue with the Work as if Owner had elected to proceed in accordance with Item 6.6.2.4.2 above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, or (b) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 8.2 hereof.

### **6.6.3 Savings.**

**6.6.3.1** If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 6.1.2 hereof) is less than the GMP, as

such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:

☒ One Hundred percent (100 %) to Owner.

or

**6.6.3.2 Contingency Savings.** If upon completion of the Work, the GMP has not been exceeded and there is a balance remaining in the Design Builder's Contingency ("Contingency Savings") the excess funds shall be shared as follows;

a. 50% to the Owner and 50% to the Design Builder.

b. Calculation of Shared Savings. Any GMP or Contingency Savings shall be calculated and paid as part of the Design Builder's Final Payment under the terms of this Contract.

**6.6.3.3** Savings shall be calculated and paid as part of Final Payment under Section 7.3 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

## **Article 7**

### **Procedure for Payment**

#### **7.1 Progress Payments.**

**7.1.1** Design-Builder shall submit to Owner on the Fifth (5th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

**7.1.2** Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

**7.1.3** If Design-Builder's Fee under Section 6.2.1 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

**7.1.4** Per Section C Race and Gender-Conscious Program Element, 4.39 Payment Affidavits of the MWBE Administrative Manual, the Contractor agrees to provide a Payment Affidavit detailing the amounts paid by the Contractor to all subcontractors and suppliers receiving payment in connection with this Contract. The Owner may require paper and/or electronic submission of the data contained in MWBE Form 6.

#### **7.2 Retainage on Progress Payments.**

##### **7.2.1**

☒ Owner will retain five percent (5 %) from Design-Builder's Applications for Payment pursuant to N.C.G.S. §143-134.1.

**7.3 Final Payment.** Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

**7.4 Record Keeping and Finance Controls.** Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such an inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

## **Article 8**

### **Termination for Convenience**

**8.1** If Design-Builder is terminated for convenience pursuant to Section 11.6 of the General Conditions, and the parties have agreed to a payment to Design-Builder in the case of such termination of convenience, Owner shall pay Design-Builder for the following in addition to the amount set forth in Section 11.6.1 of the General Conditions:

#### **8.1.1**

☒ Overhead and profit in the amount equal to the percentage of the completed work, but excluding subcontract efforts included in subcontractors' termination settlement proposals, less previous payments for fee of Twenty percent (20%) on the sum of items set forth in Section 11.6.1 of the General Conditions

**8.2** The total amount to be paid to Design-Builder, exclusive of costs described in Section 11.6.1.2 of the General Conditions, shall not exceed the total GMP.

## **Article 9**

### **Representatives of the Parties**

#### **9.1 Owner's Representatives.**

**9.1.1** Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: **(Eric Hilton, Facilities Director.**

**9.1.2** Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: **(Ian Huffman, Senior Capital Projects Manager)**

**9.2 Design-Builder's Representatives.**

**9.2.1** Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: **(Jeffrey Beam, VP Business Unit Leader, 919-741-9599)**

**9.2.2** Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: **(Dalton Williams, Operations Director, 919-741-9599)**

## **Article 10**

### **Bonds and Insurance**

**10.1 Insurance.** Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

**10.2 Bonds and Other Performance Security.** Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security pursuant to NCGS 44A-26:

**Performance Bond.**

X Required ☐ Not Required

**Payment Bond.**

X Required ☐ Not Required

## **Article 11**

### **MWBE MANDATORY PARTICIPATION PLAN**

**11.1** The MWBE Participation Plan will be attached to this Agreement as Exhibit E. A sample MWBE \ Participation Plan and all MWBE Forms may be reviewed under MWBE Forms. The parties agree that:

1. The Design Builder shall be subject to and comply with all provisions of the Guilford County MWBE Administrative Manual;
2. A violation of the MWBE Program by the Design Builder shall constitute a breach of this Agreement, and shall entitle the County to exercise any of the remedies set forth in Section C, 5.0 Remedies and Liquidated Damages of the Guilford County MWBE Administrative Manual, including but not limited to liquidated damages;

3. Nothing in this Section shall be construed to relieve the Design Builder from any obligation it may have under NCGS 143-134.1 regarding the payment to subcontractors;
4. The stated aspirational goal for this project is TBD % MWBE. Established MWBE goals for target contracts will be developed prior to the solicitation of each Bid Package. The total of the targeted trades is to be determined. The Design Builder shall be held accountable for aggregate inclusion attainment across all packages in addition to meeting established goals per bid package set by the MWBE Department. The Design Builder will require the first-tier subcontractors to submit MWBE Form 1 with their bids and subsequently submit MWBE Form 5 for all awarded first-tier subcontractors which will be submitted to the County with each bid package for review and approval. To count towards a MBE or WBE goal, the firm must be NC HUB Certified in addition to satisfying requirements listed in Section B, Program Certification and Registration of the Guilford County MWBE Administrative Manual. The County will dictate what must be included in the Recommendation of Award submittal for each bid package prior to the Design Builder awarding to the first-tier subcontractor.
5. The Design Builder will be required to submit monthly utilization reports to the MWBE Department breaking down the report by the scope of work, race/ethnicity, and gender. There may be additional reporting requirements as deemed necessary by the MWBE Department; and
6. The Design Builder shall assist the County in meeting the reporting requirement of the NCGS 143-128.

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

**OWNER/GUILFORD COUNTY:**

**ATTEST:**

---

Victor Isler  
Guilford County Manager

---

Robin Keller  
Guilford County Clerk to Board

---

Eric Hilton  
Guilford County Facilities Director

**DESIGN-BUILDER:**

---

*(Name of Owner)*

---

*(Signature)*

---

*(Printed Name)*

---

*(Title)*

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

GUILFORD COUNTY CONTRACT 90260088

# Standard Form of General Conditions of Contract Between Owner and Design-Builder

**Document No. 535**

Third Edition, 2022

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Washington, D.C.



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# **Article 1**

## **General**

### **1.1 Mutual Obligations.**

**1.1.1** *Owner and Design-Builder* commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

### **1.2 Basic Definitions.**

**1.2.1** *Agreement* refers to the executed contract between Owner and Design-Builder under DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee With an Option for a Guaranteed Maximum Price* (2022 Edition).

**1.2.2** *Basis of Design Documents* are as follows: For DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee With an Option for a Guaranteed Maximum Price*, the Basis of Design Documents are those documents specifically listed in, as applicable, the GMP Exhibit or GMP Proposal as being the “Basis of Design Documents.”.

**1.2.3** *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

**1.2.4** *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

**1.2.5** *Design-Build Team* is comprised of Design-Builder, Design Consultant, and key Subcontractors identified by Design-Builder.

**1.2.6** *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of Design Consultant but is retained by Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

**1.2.7** *Design Submission* means any and all documents, shop drawings, electronic information, including computer programs and computer-generated materials, data, plans, drawings, sketches, illustrations, specifications, descriptions, models, and other information developed, prepared, furnished, delivered or required to be delivered by, or for, Design-Builder.

**1.2.8** *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

**1.2.9** *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions that preclude the operation of a safe worksite, and other acts of God.

**1.2.9.1** *Adverse Weather Required Notifications* On any day that the Design Builder considers that the Project is delayed by adverse weather. conditions, the Design Builder shall identify in writing to the Owner the adverse weather conditions affecting each activity, the specific nature of the activity

affected, the number of hours lost, and the number of and identity (by responsibility or trade) of workers affected and shall obtain written recognition of the delay. The time for performance of this Contract includes an allowance for a number of calendar days which may not be suitable for construction Work by reason of adverse weather. The Contract Time will be extended only if the number of calendar days of adverse weather recognized by the Designer exceeds the number of inclement weather days set forth as published on the NOAA website, and the Contractor demonstrates how this adverse weather impacts activities on the critical path of the Contract Construction Schedule.

**1.2.10** *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2022 Edition).

**1.2.11** *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee With an Option for a Guaranteed Maximum Price*, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

**1.2.12** *GMP Proposal* or *Proposal* means that proposal developed by Design-Builder in accordance with Section 6.6 of DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder, Cost Plus Fee With an Option for a Guaranteed Maximum Price*

**1.2.13** *Hazardous Conditions* are any materials, wastes, substances, and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

**1.2.14** *Legal Requirements* are all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

**1.2.15** *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

**1.2.16** *Site* is the land or premises on which the Project is located.

**1.2.17** *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

**1.2.18** *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

**1.2.19** *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project for its intended purposes.

**1.2.20** *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

## **Article 2**

### **Design-Builder's Services and Responsibilities**

#### **2.1 General Services.**

**2.1.1** Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

**2.1.2** Unless the parties agree on a different time period for submission of a status report, Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule; (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution; (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee With an Option for a Guaranteed Maximum Price*; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s). Status reports shall be submitted with Design-Builder's draft Payment Applications as a pre-requisite to payment.

**2.1.3** Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences, and techniques for executing the Work.

**2.1.4** The parties will meet within fourteen (14) calendar days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

#### **2.2 Design Professional Services.**

**2.2.1** Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the Owner and any Design Consultant.

**2.2.2** Design-Builder shall employ only Design Consultants and/or Design Subconsultants who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Prior to the date that Design Consultants and/or Design Subconsultants perform Work on the Project, Design-Builder shall identify in writing to Owner all Design Consultants and Design Subconsultants. To the extent that Design-Builder has not selected a Design Consultant or Design Subconsultant prior to performing the Work, Design-Builder shall provide Owner in writing a list of any subsequently added Design Consultants and/or Design Subconsultants and their scope of Work

prior to their performing Work on the Project. Owner may reasonably object to Design-Builder's selection of any Design Consultant or Design Subconsultant, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance. Design-Builder shall not substitute a listed Design Consultant or Subconsultant without obtaining Owner's prior written consent; such consent shall not be unreasonably withheld. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant or Design Subconsultant, including but not limited to any third-party beneficiary rights.

## **2.3 Standard of Care for Design Professional Services.**

**2.3.1** The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the applicable profession practicing under similar conditions at the same time and locality of the Project.

## **2.4 Design Development Services.**

**2.4.1** Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim Design Submissions that Owner may wish to review, which interim Design Submissions may include design criteria, drawings, diagrams, and specifications setting forth the Project requirements.

**2.4.1.1** Design Submissions shall be consistent with the Owner's Project Criteria as well as the Basis of Design Documents, as the Basis of Design Documents may have been changed or supplemented through the design process set forth in this Section 2.4.1. By submitting Design Submissions, Design-Builder represents to the Owner that the Work depicted and otherwise shown, contained, or reflected in Design Submissions may be constructed in compliance with the then current Contract Price and Contract Time. Notwithstanding the above, Design-Builder may propose Design Submissions that may alter the Basis of Design Documents, the Contract Price and/or Contract Time; however, Design-Builder must provide notice thereof in accordance with Article 10 of the General Conditions and obtain a Change Order before such proposed Design Submissions are incorporated into the Construction Documents.

**2.4.1.2** On or about the time of the Design Submissions, Design-Builder and Owner shall meet and confer about the Design Submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted Design Submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim Design Submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

**2.4.1.3** Owner shall review and respond to Design Submissions, providing any comments and/or concerns about the Design Submissions. Owner shall provide all comments on the Design Submissions within the time provided by the Contract Documents. Design-Builder shall revise the Design Submissions (and any other deliverables) in response to Owner's comments and incorporate said responses into the next submission of Design Submissions.

**2.4.1.4** If incorporation of Owner's comments results in a design that is inconsistent with or otherwise gives rise to a change in Owner's Project Criteria, the Basis of Design Documents, the Contract Price and/or the Contract Time, Design-Builder shall provide notice thereof in accordance with Articles 9 and 10 of the General Conditions. Changes to the Basis of Design Documents, the Contract Price and/or the Contract Time, including

those that are deemed minor changes, shall be processed in accordance with Article 9 of the General Conditions.

**2.4.2** Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim Design Submissions, as such submissions may have been modified in a design review meeting and recorded in the meeting minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

**2.4.3** Owner's review and approval of interim Design Submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim Design Submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner. Design-Builder shall provide Owner with sufficient time in the Project Schedule to review and approve the Design Submissions.

**2.4.4** To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim Design Submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

## **2.5 Legal Requirements.**

**2.5.1** Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

**2.5.2** The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

## **2.6 Government Approvals and Permits.**

**2.6.1** Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

**2.6.2** Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

## **2.7 Design-Builder's Construction Phase Services.**

**2.7.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

**2.7.2** Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

**2.7.3** All fees associated the necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project will be a direct reimbursable expense from the Owner to the Design-Builder.

**2.7.4** Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Prior to the date that Subcontractors perform Work on the Project, Design-Builder shall identify in writing to Owner all Subcontractors. To the extent that Design-Builder has not selected a Subcontractor prior to performing the Work, Design-Builder shall provide Owner in writing a list of any subsequently added Subcontractors prior to their performing Work on the Project. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance. Design-Builder may not substitute listed Subcontractors without Owner's prior written consent; such consent shall not be unreasonably withheld.

**2.7.5** Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

**2.7.6** Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

**2.7.7** Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

## **2.8 Design-Builder's Responsibility for Project Safety.**

**2.8.1** Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting; (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site; and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

**2.8.2** Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

**2.8.3** Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters; and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

## **2.9 Design-Builder's Warranty.**

**2.9.1** Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

## **2.10 Correction of Defective Work.**

**2.10.1** Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or within such longer period to the extent required by any specific warranty included in the Contract Documents.

**2.10.2** Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

**2.10.3** The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

## **Article 3**

### **Owner's Services and Responsibilities**

#### **3.1 Duty to Cooperate.**

**3.1.1** Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

**3.1.2** Owner shall provide timely reviews and approvals of interim Design Submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

**3.1.3** Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

#### **3.2 Furnishing of Services and Information.**

**3.2.1** Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

**3.2.1.1** Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

**3.2.1.2** Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

**3.2.1.3** Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

**3.2.1.4** A legal description of the Site;

**3.2.1.5** To the extent available, record drawings of any existing structures at the Site; and

**3.2.1.6** To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

**3.2.2** Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

#### **3.3 Owner's Representative.**

**3.3.1** Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

### **3.4 Government Approvals and Permits.**

**3.4.1** Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in Owner's Permit List attached as an exhibit to the Agreement.

**3.4.2** Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

### **3.5 Owner's Separate Contractors.**

**3.5.1** Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with and coordinate their activities so as not to interfere with Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

## **Article 4**

### **Hazardous Conditions and Differing Site Conditions**

#### **4.1 Hazardous Conditions.**

**4.1.1** Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

**4.1.2** Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

**4.1.3** Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless; and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

**4.1.4** Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

**4.1.5** To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

**4.1.6** Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

## **4.2 Differing Site Conditions.**

**4.2.1** Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work, are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

**4.2.2** Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than seven (7) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

# **Article 5**

## **Insurance and Bonds**

### **5.1 Design-Builder's Insurance Requirements.**

**5.1.1** Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement.

**5.1.2** Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

**5.1.3** Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents; and (ii) no insurance coverage will be canceled, renewal refused or materially changed unless at least thirty (30) days' prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment is reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by Design-Builder with reasonable promptness according to Design-Builder's information and belief.

### **5.2 Owner's Liability Insurance.**

**5.2.1** Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

### **5.3 Owner's Property Insurance.**

**5.3.1** Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

**5.3.3** Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner; and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days' prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

**5.3.4** Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

**5.3.5** Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

### **5.4 Bonds and Other Performance Security.**

**5.4.1** Design-Builder shall obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form, and other conditions of such security as shall be set forth in the Agreement.

**5.4.2** All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

## **Article 6**

### **Payment**

#### **6.1 Schedule of Values.**

**6.1.1** Unless required by Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts; (ii) include values for all items comprising the Work; and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

**6.1.2** Owner will timely review and approve the schedule of values so as not to delay the submission of Design-Builder's first application for payment. Owner and Design-Builder shall timely resolve any differences so as not to delay Design-Builder's submission of its first application for payment.

#### **6.2 Monthly Progress Payments.**

**6.2.1** On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

**6.2.2** The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored either on-site or at another acceptable location. Such payments shall exclude the value of materials stored off-site which are equal to or exceed fifty percent (50%) of the value of the contract and require that; (ii) the equipment and materials are protected by suitable insurance; and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

**6.2.3** All discounts offered by Subcontractors, Sub-Subcontractors, and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

**6.2.4** The Application for Payment shall constitute Design-Builder's representation that the Work described therein has been performed consistently with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

#### **6.3 Withholding of Payments.**

**6.3.1** On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. The owner shall not retain more than five percent (5%) of any periodic payment due a prime contractor per applicable law.(NCGS 143-134.1) If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due.

If the parties cannot resolve such concerns, Design-BUILDER may pursue its rights under the Contract Documents, including those under Article 10 hereof.

**6.3.2** Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-BUILDER all undisputed amounts in an Application for Payment within the times required by the Agreement.

#### **6.4 Right to Stop Work and Interest.**

**6.4.1** If Owner fails to pay timely Design-BUILDER any undisputed amount that becomes due, Design-BUILDER, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

#### **6.5 Design-BUILDER's Payment Obligations.**

**6.5.1** Design-BUILDER will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-BUILDER has received from Owner on account of their work. Design-BUILDER will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-BUILDER will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof And as required by NCGS 143-134.1.

#### **6.6 Substantial Completion.**

**6.6.1** Design-BUILDER shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-BUILDER's notice, Owner and Design-BUILDER will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof; (ii) the remaining items of Work that have to be completed before final payment; (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-BUILDER's responsibility for the Project's security, maintenance, utilities and insurance pending final payment; and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

**6.6.2** Upon Substantial Completion of the entire Work, Owner shall release to Design-BUILDER the final payment and all retained amounts relating, as applicable, to the entire Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

The Owner may retain a portion of the payment as permitted by N.C.G.S 143-134.1 (b)(1)) as follows:

(2) When the project is fifty percent (50%) complete, the owner, with written consent of the surety, shall not retain any further retainage from periodic payments due the contractor if the contractor continues to perform satisfactorily and any nonconforming work identified in writing prior to that time by the architect, engineer, or owner has been corrected by the contractor and accepted by the architect, engineer, or owner. If the owner determines the contractor's performance is unsatisfactory, the owner may reinstate retainage for each subsequent periodic payment application as authorized in this subsection up to the maximum amount of five percent (5%). The project shall be deemed fifty percent (50%) complete when the contractor's gross project invoices, excluding the value of materials stored off-site, equal or exceed fifty percent (50%) of the value of the contract, except the value of materials stored on-site shall not exceed twenty percent (20%) of the contractor's gross project invoices for the purpose of determining

whether the project is fifty percent (50%) complete.

(3) A subcontract on a contract governed by this section may include a provision for the retainage on periodic payments made by the prime contractor to the subcontractor. However, the percentage of the payment retained: (i) shall be paid to the subcontractor under the same terms and conditions as provided in subdivision (2) of this subsection and (ii) subject to subsection (b3) of this section, shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Subject to subsection (b3) of this section, any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.

(4) Within 60 days after the submission of a pay request and one of the following occurs, as specified in the contract documents, the owner with written consent of the surety shall release to the contractor all retainage on payments held by the owner: (i) the owner receives a certificate of substantial completion from the architect, engineer, or designer in charge of the project; or (ii) the owner receives beneficial occupancy or use of the project. However, the owner may retain sufficient funds to secure completion of the project or corrections on any work. If the owner retains funds, the amount retained shall not exceed two and one-half times the estimated value of the work to be completed or corrected. Any reduction in the amount of the retainage on payments shall be with the consent of the contractor's surety.

**6.6.3** Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above; (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project; and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

## **6.7 Final Payment.**

**6.7.1** After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

**6.7.2** At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

**6.7.2.1** An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

**6.7.2.2** A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

**6.7.2.3** Consent of Design-Builder's surety, if any, to final payment;

**6.7.2.4** All operating manuals, training of owner by vendor suppliers, warranties and other deliverables required by the Contract Documents;

**6.7.2.5** Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents; and

**6.7.2.6** A final MWBE Affidavit detailing cumulative payments to all subcontractors and suppliers

**6.7.3** Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests; (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion; and (iii) the terms of any special warranties required by the Contract Documents.

**6.7.4** Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the punch list if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

## **Article 7**

### **Indemnification**

#### **7.1 Patent and Copyright Infringement.**

**7.1.1** Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

**7.1.2** If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright; or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

**7.1.3** Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner; or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

**7.1.4** The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement or violation of any patent or copyright.

## **7.2 Tax Claim Indemnification.**

**7.2.1** If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

## **7.3 Payment Claim Indemnification.**

**7.3.1** Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

## **7.4 Design-Builder's General Indemnification.**

**7.4.1** Except as set forth in Section 7.4.2 below, Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for non-party bodily injury, sickness or death and non-party property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

**7.4.2** For indemnity obligations that arise from professional errors and omissions, Design-Builder, to the fullest extent permitted by law, shall indemnify Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for non-party bodily injury, sickness, or death and non-party property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

**7.4.3** If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligations set forth in Sections 7.4.1 and 7.4.2 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

## **7.5 Owner's Hold Harmless Provision.**

**7.5.1** Owner, to the fullest extent permitted by law, shall hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Owner, Owner's separate contractors or anyone for whose acts any of them may be liable.

## **7.6 Limited Recourse.**

**7.6.1** None of the obligations set forth in this Agreement (on behalf of any party) constitute personal obligations of any natural persons who are the officers, shareholders, members, partners, employees, or agents of any party unless the natural person is expressly identified as a contracting party. All Parties to this Agreement shall not seek recourse against any natural person described herein. This provision, however, shall not protect such natural persons from liability for willful misconduct, illegal acts or intentional violation of any duty of corporate loyalty.

# **Article 8**

## **Time**

### **8.1 Obligation to Achieve the Contract Times.**

**8.1.1** Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

### **8.2 Delays to the Work.**

**8.2.1** If Design-Builder is delayed on the critical path in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

**8.2.2** In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

# **Article 9**

## **Changes to the Contract Price and Time**

### **9.1 Change Orders.**

**9.1.1** A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

**9.1.1.1** The scope of the change in the Work;

**9.1.1.2** The amount of the adjustment to the Contract Price; and

**9.1.1.3** The extent of the adjustment to the Contract Time(s).

**9.1.2** All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

**9.1.3** If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

## **9.2 Work Change Directives.**

**9.2.1** A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

**9.2.2** Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

## **9.3 Minor Changes in the Work.**

**9.3.1** Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

## **9.4 Contract Price Adjustments.**

**9.4.1** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

**9.4.1.1** Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

**9.4.1.2** A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

**9.4.1.3** Costs, fees and any other markups set forth in the Agreement; or

**9.4.1.4** If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

**9.4.2** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

**9.4.3** If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing

Design-Builder to proceed; and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services; and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

## **9.5 Emergencies.**

**9.5.1** In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

# **Article 10**

## **Contract Adjustments and Disputes**

### **10.1 Requests for Contract Adjustments and Relief.**

**10.1.1** If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed fourteen (14) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. The claimant shall provide more complete information with respect to the claim within fourteen (14) days of the initial notice. The more complete information shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

### **10.2 Dispute Avoidance and Resolution.**

**10.2.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**10.2.2** Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless Owner and Design-Builder mutually agree otherwise.

**10.2.3** If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case not later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

**10.2.4** The Owner's Senior Representative and Design Builder's Senior Representative shall endeavor to resolve claims, disputes, and other matters in question between all parties by non-binding mediation. The selection of the mediator and the procedure for the mediation shall be determined by the agreement of the parties. In the absence of an agreement concerning the mediation process, the parties shall utilize the Rules Implementing Mediated Settlement Conference adopted by the State Building Commission in North Carolina Public Construction Projects. If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a North Carolina court of competent jurisdiction.

### **10.3 Arbitration.**

**10.3.1** Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above, shall be decided by arbitration in accordance with the Rules Implementing Mediated Settlement Conference adopted by the State Building Commission in North Carolina Public Construction Projects then in effect, unless the parties mutually agree otherwise.

**10.3.2** The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

**10.3.3** Design-Builder and Owner expressly agree that any arbitration pursuant to this Section 10.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy; or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require such joinder or consolidation.

**10.3.4** The prevailing party in any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party reasonable attorneys' fees and expenses incurred by the prevailing party. The prevailing party, if any, shall be determined by the applicable binding dispute tribunal.

### **10.4 Duty to Continue Performance.**

**10.4.1** Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations for undisputed amounts to Design-Builder as well as any further amounts pursuant to Section 9.4.3, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

### **10.5 CONSEQUENTIAL DAMAGES.**

**10.5.1** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

**10.5.2** The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

## **Article 11**

### **Stop Work and Termination**

#### **11.1 Owner's Right to Stop Work.**

**11.1.1** Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

**11.1.2** Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner.

#### **11.2 Owner's Right to Perform and Terminate for Cause.**

**11.2.1** If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

**11.2.2** Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

**11.2.3** Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

**11.2.4** If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Section 11.6 hereof.

### **11.3 Design-Builder's Right to Stop Work.**

**11.3.1** Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

**11.3.1.1** Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

**11.3.1.2** Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

**11.3.2** Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. Design-Builder shall not stop work unless it provides such written notice and Owner has failed to cure the reason for default within the seven (7) day cure period. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

### **11.4 Design-Builder's Right to Terminate for Cause.**

**11.4.1** Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

**11.4.1.1** The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

**11.4.1.2** Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

**11.4.1.3** Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

**11.4.2** Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such a case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

### **11.5 Bankruptcy of Owner or Design-Builder.**

**11.5.1** If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

**11.5.1.1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

**11.5.1.2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

**11.5.2** The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

## **11.6 Termination for Convenience.**

**11.6.1** Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

**11.6.1.1** All Work executed and for proven loss, cost or expense in connection with the Work;

**11.6.1.2** The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

**11.6.1.3** The amount set forth in Article 8 of the Agreement.

**11.6.2** If Owner terminates this Agreement pursuant to Section 11.6.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 of the Agreement. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 4 of the Agreement.

# **Article 12**

## **Electronic Data**

### **12.1 Electronic Data.**

**12.1.1** The parties recognize that Contract Documents, including drawings, specifications, and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

### **12.2 Transmission of Electronic Data.**

**12.2.1** Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to

access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

**12.2.2** Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

**12.2.3** By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

### **12.3 Electronic Data Protocol.**

**12.3.1** The parties acknowledge that Electronic Data may be altered or corrupted, intentionally, or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree to the following protocols, terms and conditions set forth in this Section 12.3.

**12.3.2** Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

**12.3.3** The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

**12.3.4** The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

## **Article 13**

### **MWBE MANDATORY PARTICIPATION PLAN**

**13.1** The MWBE Participation Plan will be attached to this Agreement as Exhibit E. A sample MWBE Participation Plan and all MWBE Forms may be reviewed under MWBE Forms. The parties agree that:

1. The Design Building shall be subject to and comply with all provisions of the Guilford County MWBE Administrative Manual;
2. A violation of the MWBE Program by the Design Builder shall constitute a breach of this

- Agreement, and shall entitle the County to exercise any of the remedies set forth in Section C, 5.0 Remedies and Liquidated Damages of the Guilford County MWBE Administrative Manual, including but not limited to liquidated damages;
3. Nothing in this Section shall be construed to relieve the Design Builder from any obligation it may have under NCGS 143-134.1 regarding the payment to subcontractors;
  4. The stated aspirational goal for this project is \_TBD % MWBE. Established MWBE goals for target contracts will be developed prior to the solicitation of each Bid Package. The total of the targeted trades is to be determined. The Design Builder shall be held accountable for aggregate inclusion attainment across all packages in addition to meeting established goals per bid package set by the MWBE Department. The Design Builder will require the first-tier subcontractors to submit MWBE Form 1 with their bids and subsequently submit MWBE Form 5 for all awarded first-tier subcontractors which will be submitted to the County with each bid package for review and approval. To count towards a MBE or WBE goal, the firm must be NC HUB Certified in addition to satisfying requirements listed in Section B, Program Certification and Registration of the Guilford County MWBE Administrative Manual. The County will dictate what must be included in the Recommendation of Award submittal for each bid package prior to the Design Builder awarding to the first-tier subcontractor.
  5. The Design Builder will be required to submit monthly utilization reports to the MWBE Department breaking down the report by the scope of work, race/ethnicity, and gender. There may be additional reporting requirements as deemed necessary by the MWBE Department; and
  6. The Design Builder shall assist the County in meeting the reporting requirement of the NCGS 143-128.

## **Article 14**

### **Miscellaneous**

#### **14.1 Confidential Information.**

**14.1.1** Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

#### **14.2 Assignment.**

**14.2.1** Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

#### **14.3 Successorship.**

**13.3.1** Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

#### **14.4 Governing Law.**

**14.4.1** The Agreement and all Contract Documents shall be governed by the laws of the State of North Carolina and any applicable laws of the United States of America.

#### **14.5 Severability.**

**14.5.1** If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

#### **14.6 No Waiver.**

**14.6.1** The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

#### **14.7 Headings.**

**14.7.1** The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

#### **14.8 Notice.**

**14.8.1** Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice; (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement; (iii) if transmitted by facsimile, by the time stated in a machine-generated confirmation that notice was received at the facsimile number of the intended recipient; or (iv) by electronic mail, by the time frame stated in the email-generated confirmation that notice was received by the email of the intended recipient.

#### **14.9 Amendments.**

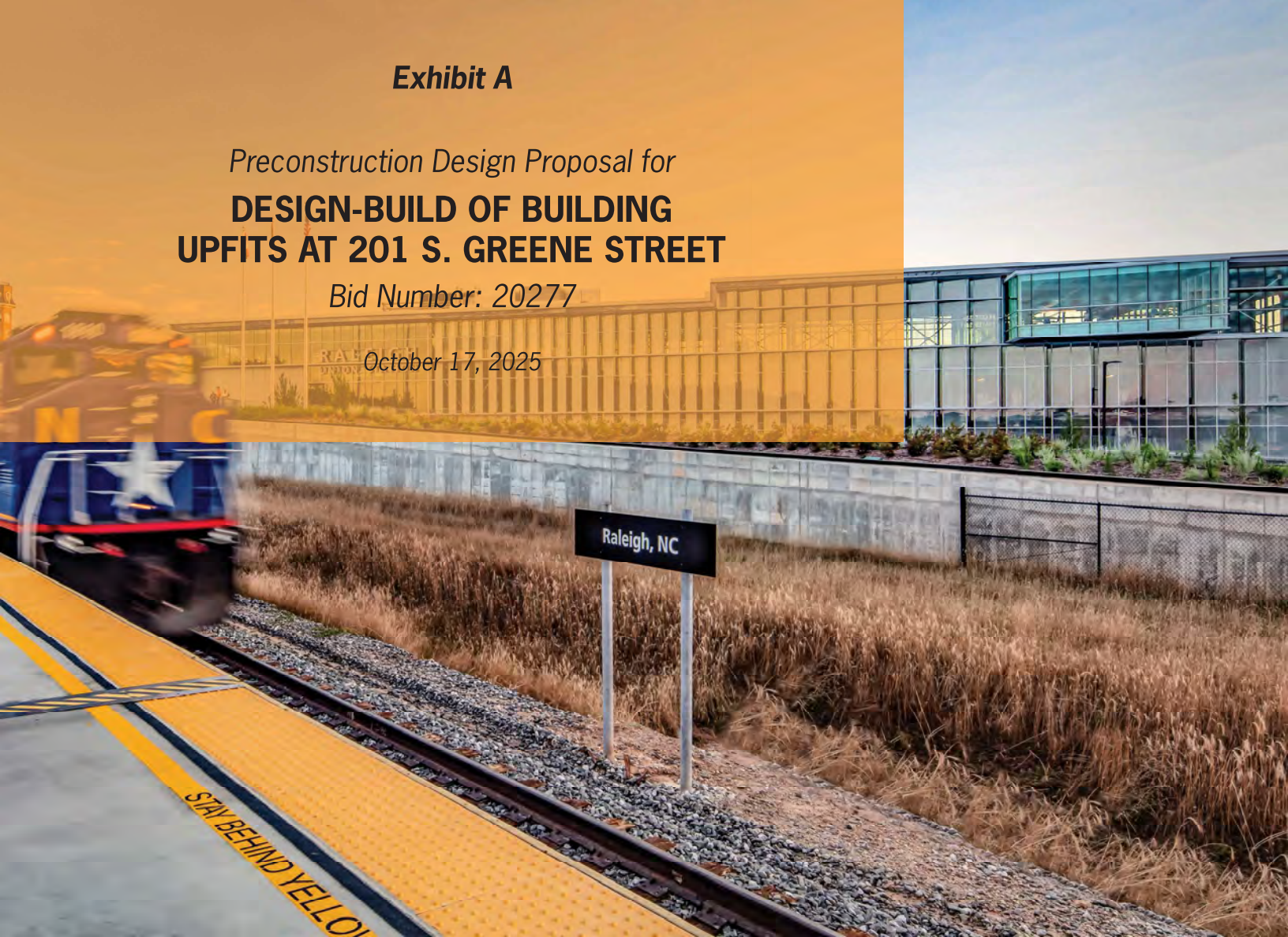
**14.9.1** The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

## Exhibit A

# Preconstruction Design Proposal for **DESIGN-BUILD OF BUILDING UPFITS AT 201 S. GREENE STREET**

Bid Number: 20277

October 17, 2025



October 17, 2025

Guilford County  
Purchasing Department  
201 West Market Street, Suite 304  
Greensboro, NC 27401

**Re: Upfits at 201 S. Greene Street Proposal Revision #2**

Dear Mr. Huffman,

Thank you for selecting our team to submit our revised preconstruction design proposal for the Upfits at 201 S. Greene St. We value the opportunity to partner with Guilford County on this important project and are committed to providing thorough planning, accurate cost information, and proactive support through this design-build partnership.

To prepare this proposal, our team has made reasonable assumptions based on the information currently available. These assumptions are identified in our submission and have informed our initial recommendations, scope considerations, and cost projections. As design and investigations progress, we anticipate that revisions may be necessary, and we respectfully reserve the right to adjust as additional information becomes available and assumptions are validated.

We look forward to continuing our partnership with the County, refining details, managing risk, and delivering the best possible outcome for the project.

We appreciate the opportunity to submit this proposal. If you have any questions about the materials enclosed or need additional information, please do not hesitate to contact us.

Sincerely,



Jeff Beam, VP Business Unit Leader  
Holt Brothers Construction  
jbeam@holtbrothersinc.com | 919.787.1981

# Tab 1

*Fee Proposal*

# FEE PROPOSAL

| Project                                                                        |                                                    |             |           |
|--------------------------------------------------------------------------------|----------------------------------------------------|-------------|-----------|
| Name:                                                                          | Upfits at 201 S. Greene St.                        |             |           |
| Precon Scope                                                                   | Design & Precon services through Permitting & FGMP |             |           |
| Location                                                                       | Guilford County                                    |             |           |
| Building Information                                                           | 201 S. Greene St., Greensboro, NC                  |             |           |
| Date                                                                           | 10/17/25                                           | Revision #2 |           |
| Scope of Services - Proposal Summary                                           |                                                    |             |           |
| DESCRIPTION                                                                    |                                                    |             | TOTAL     |
| HBC Labor (See Below)                                                          |                                                    |             | \$102,600 |
| Architectural Design - services provided by Clearscape                         |                                                    |             | \$203,000 |
| Schematic Design                                                               |                                                    |             | \$45,000  |
| Design Development                                                             |                                                    |             | \$60,000  |
| Construction Documents                                                         |                                                    |             | \$80,000  |
| Permitting                                                                     |                                                    |             | \$18,000  |
| MEP Engineering Design - services provided by Sigma Engineered Solutions       |                                                    |             | \$67,500  |
| Schematic Design                                                               |                                                    |             | \$10,000  |
| Design Development                                                             |                                                    |             | \$15,000  |
| Construction Documents                                                         |                                                    |             | \$37,500  |
| Permitting                                                                     |                                                    |             | \$5,000   |
| Structural Design - services provided by Clearscape and consultants            |                                                    |             | \$7,500   |
| Allowance                                                                      |                                                    |             | \$7,500   |
| Data, Communication AV and Security Design - Allowance - Strategic Connections |                                                    |             | \$25,000  |
| EIFS and Skin Analysis - Allowance                                             |                                                    |             | \$25,000  |
| BIM: TBD                                                                       |                                                    |             | \$0       |
| Insurance Claim Review and Support - Contractor and Designer                   |                                                    |             | \$20,000  |
| Building Permit and Fees - Allowance                                           |                                                    |             | \$10,000  |
| Fire Protection Survey, Water Test & Design - Allowance                        |                                                    |             | \$25,000  |
| Designer Surveys, Fire Protection and Insurance Support                        |                                                    |             | \$15,000  |
| Reimbursables from Designer and Contractor                                     |                                                    |             | \$15,000  |
| MEPFP Subcontractor Site Survey and Insurance Support                          |                                                    |             | \$25,000  |
| Owner 10% Contingency                                                          |                                                    |             | \$65,245  |
| Exclusions & Clarifications                                                    |                                                    |             |           |
| Included in proposal under Tab 2                                               |                                                    |             |           |
| SUBTOTAL                                                                       |                                                    |             | \$605,845 |
| PROFIT (fixed rate) - 5%                                                       |                                                    |             | \$30,292  |
| Bonds & Insurance (fixed rate) - 2.5%                                          |                                                    |             | \$16,311  |
| LUMP SUM TOTAL                                                                 |                                                    |             | \$652,448 |
| PRECONSTRUCTION LABOR BREAKDOWN                                                |                                                    |             |           |
|                                                                                | Hours                                              | Fixed Rate  | Total     |
| HBC Precon hours from Design Development Drawings through Bidding              |                                                    |             |           |
| Project Executive                                                              | 40                                                 | \$ 190      | \$7,600   |
| Project Manager                                                                | 80                                                 | \$ 135      | \$10,800  |
| Project Engineer                                                               | 120                                                | \$ 85       | \$10,200  |
| Precon Manager                                                                 | 80                                                 | \$ 140      | \$11,200  |
| Estimator                                                                      | 500                                                | \$ 120      | \$60,000  |
| Project Admin                                                                  | 40                                                 | \$ 70       | \$2,800   |
| LUMP SUM TOTAL                                                                 |                                                    |             | \$102,600 |

# Tab 2

## *Assumptions & Clarifications*

## ASSUMPTIONS & CLARIFICATIONS

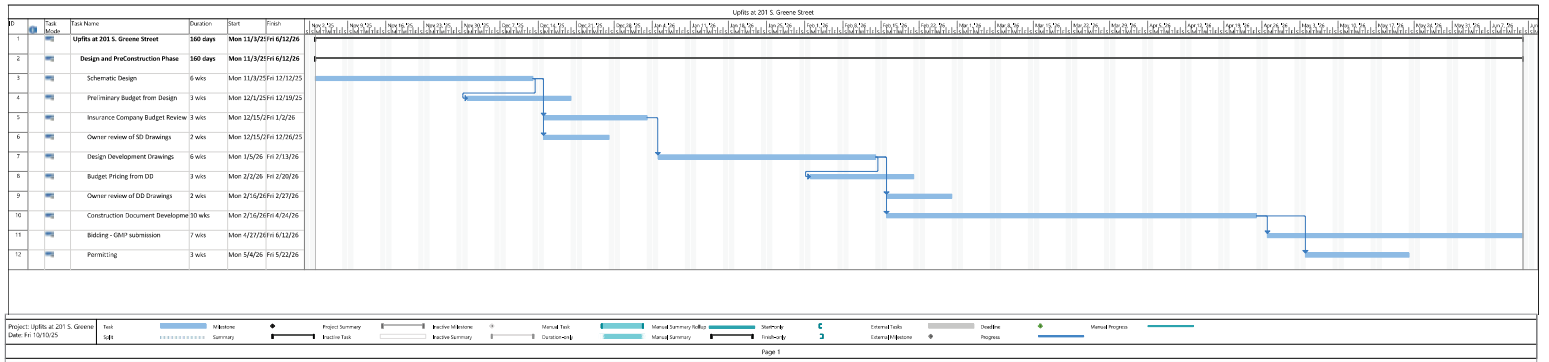
1. The Contractor or Design Team has not yet conducted a site visit. This proposal is based on unit pricing and historical data and should be considered as preliminary. Final pricing will be provided after a site visit is completed and actual site conditions are verified.
2. This proposal does include an allowance from the Contractor and Design Team for investigating or providing cost estimates related to insurance claims or audit adjustments. This allowance will need to be adjusted as necessary based on what services are required of our Team to support this effort.
3. Schedule: The proposal is based on Holt Brothers Construction and our design consultants being able to perform the work without restriction off-hours, or weekends. Our proposal is based on a construction schedule provided as part of our proposal. Please note the schedule has a requested 2-week owner review of each phase of design documents and it is assumed the next phase of document progression will proceed during the review owner review time.
4. This proposal excludes the following design services:
  - a. structural design or engineering
  - b. site work or utilities
  - c. furniture
5. This proposal excludes the following items:
  - a. Any construction activities and services
  - b. Building and site security
  - c. Development / Impact fees
  - d. Easements, right of ways, or public utility fees or agreements
  - e. Archaeologist / archaeological plan
  - f. Furniture, fixtures, and equipment (FF&E)
  - g. Sitework and Utilities – any design or work outside of the building
  - h. Relocation/salvaging of existing FF&E, fire damage debris, etc.
6. We include Tax on this proposal
7. We exclude builder's risk insurance (by owner).
8. Our proposal is based on a mutually agreeable contract and conditions of the contract terms. We exclude general liability insurance limits that exceed the standard coverage by Holt Brothers Construction.
9. General conditions will be billed at a fixed rate that is not subject to audit.
10. We exclude securing permanent utilities. We exclude expenses associated with any delay created by the utility company's inability to provide service in conformance with project schedule requirements.

11. We exclude unforeseen and/or hidden conditions.
12. Proposal is based on receipt of the available CAD/Revit files from the Owner.
13. Assumptions and clarifications from attached design consultant proposals are assumed to be a part of HBC proposal and are to be added to HBC assumptions and clarifications.

# Tab 3

## *Preconstruction Schedule*

## PRECONSTRUCTION SCHEDULE



# Tab 4

## *Supporting Documents*

October 3, 2025

Mr. Terrence Holt  
Holt Brothers Construction  
421 Fayetteville Street, Suite 1300  
Raleigh, NC 27601

**RE: RENOVATION & UPFIT OF 201 S. GREENE STREET, GREENSBORO, NC**

Dear Mr. Holt,

Clearscapes is pleased to submit this proposal for design services in support of the renovation and upfit of the existing facility located at 201 S. Greene Street in Greensboro, NC. We are excited for the opportunity to collaborate with Holt Brothers Construction on this important project.

**PROJECT UNDERSTANDING**

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The subject building sustained fire damage on its upper two floors, which have since been stabilized and cleared of damaged materials. The lower two levels of the facility remain in serviceable condition and may continue to be occupied during construction – occupancy during construction will be confirmed during project development.

We understand you wish the reconstruction work to be completed within 18 months. Clearscapes will provide full design services in support of Holt Brothers, lead the permitting process, and ultimately offer Construction Administration services throughout construction and close out.

**SCOPE OF SERVICES**

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Our scope of professional services will include the following:

Schematic Design: We will translate the Owner's goals and programming into a schematic-level design for the renovation and upfit of the upper two floors of 201 S. Greene St., integrating this scope with NC Building Code requirements for the renovation. This will include:

- Development of base plans from Owner's Record Drawings with integration of existing conditions documentation as observed by the design and construction teams
- Creating plan diagrams to study upfit options with you, and upon the selection of a preferred option, development of those diagrams into schematic floor plans for the upfit areas
- Preparation of a preliminary life safety and building code approach
- Coordination of preliminary building systems (mechanical, electrical, plumbing, fire alarm) strategies with engineering team – building systems engineering is provided by others
- Development of interior design approach including spatial character, finishes, and furniture strategy for the upper floors

We propose to work iteratively with your team and stakeholders during Schematic Design to review and evaluate a range of options to ensure the design reflects the Owner's goals and supports continued operations in the lower floors, if required. *Up to a maximum of 4 meetings with the owner group and stakeholders during Schematic Design is included in this proposal.*

Design Development: During Design Development, the approved Schematic Design will be developed into coordinated drawings and documents. Deliverables will include:

- Architectural – Building floor plans, roof plans if required, enlarged plans, elevations, preliminary RCPs, wall sections, window/door/finish schedules, interior finishes, typical details, and updated life safety/code drawings
- Interior Design – Development of finishes and coordination with a selected furniture vendor to design and select furnishings supporting the upfit of the upper two floors
- Building Systems (M/P/E/FA) – Coordination with Building Systems Engineers on the development of building systems drawings evolved from SD-level narratives – Building systems engineering by others
- Specifications – Outline specifications for all project components

*Up to a maximum of 3 meetings with the owner group and stakeholders during Design Development is included in this proposal.*

Construction Drawings: During Construction Documents, we will prepare a complete set of detailed and coordinated drawings suitable for permitting and construction. Deliverables will include:

- Architectural – Full CD drawings including floor plans and RCPs, roof plan if required, enlarged plans and RCPs, elevations, wall sections, window/door/finish schedules, exterior and interior details, interior finishes, and final life safety/code drawings
- Interior Design – Furniture layouts, finish schedules, and integration with architectural drawings and documents
- Building Systems (M/P/E/FA) – Coordination with Building Systems Engineers on the fully developed plans, risers, schedules, and details of all building systems – Building systems engineering by others
- Specifications – Project manual including short-form specifications

*Up to a maximum of 3 meetings with the owner group and stakeholders during the Construction Document phase is included in this proposal.*

Permitting: We will submit the completed permit set to local authorities having jurisdiction and manage the review and approval process. We will coordinate responses to comments and revisions as required to secure building permits promptly.

*Up to a maximum of 2 standard permit review cycles with coordination and formal responses is included in this proposal.*

## PROJECT SCHEDULE

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Design Phase: 6 months

- Schematic Design: 6 weeks
  - o *Assumed 2-week owner review timeframe to run concurrently with the beginning of DD Phase*
- Design Development: 8 weeks
  - o *Assumed 2-week owner review timeframe to run concurrently with the beginning of CD Phase*
- Construction Documents: 12 weeks
  - o *Assumed 2-week owner review timeframe to run concurrently with the Permit Review process*
- Furniture Selection & Design: To proceed concurrently with the design phase

Permitting: 1 month

## ASSUMPTIONS AND CLARIFICATIONS

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1. As the project team has not yet conducted a site visit and the full scope of work remains to be determined, this proposal is based on unit pricing and hourly rates, applied to estimated hours required per phase and based on the hourly billing rates of each proposed team member, the preliminary scope indicated, and the rough construction budget given. The final fee will be determined in conjunction with the negotiation of the Guaranteed Maximum Price (GMP), once the team has a more complete understanding of existing conditions and desired project scope.
2. This fee proposal is for architectural services only. This proposal does not include engineering services or specialty consultants, but it does include coordinating the design with the full suite of design consultants under Holt Brother's contract.
3. This proposal is for design services only and does not include Construction Administration and Close Out services. Once the scope of work is defined and a cost of work is established, CA and Closeout fees will be included in the negotiated GMP.
4. This proposal assumes that Guilford County will provide Holt Brothers/Clearscapes with base plans of the structure to use for field verification and the development of existing building plans. If a site survey is needed, it is assumed to be owner-provided.
5. This proposal assumes all renovation work will be submitted as one permit package utilizing a standard review process. Building permit review fees and building permit fees are not included.
6. This proposal includes wireframe 3d views generated as part of the normal design process exported directly from Revit to support the team's understanding of spatial relationships and aid in decision-making. Marketing-level renderings are not included, but may be provided as desired for an additional fee of \$3,000 per image.
7. Based on our preliminary research, we do not believe the subject property falls within a local historic district, and as such, obtaining a COA for any contemplated work to the exterior of the building is excluded from this proposal. Should the need arise for such services, they can be provided for an additional fee.
8. This proposal assumes that Guilford County will provide Holt Brothers/Clearscapes with all hazardous materials testing reports and design required for the renovation project. Hazardous materials testing and design can be included for an additional fee.
9. This proposal assumes that Guilford County will provide Holt Brothers/Clearscapes with any background information associated with the stabilization and remediation of the fire-damaged area to date that may affect this scope of work.
10. This proposal does not anticipate that sprinklering the building will be required. If the need to sprinkler the building arises as we move through the design process, we will incorporate that scope of design work for an additional fee.
11. This proposal assumes that the final owner review will proceed concurrently with the building permit review, and an "Issued for Construction" set will be produced compiling all permit review and owner-requested revisions if needed.
12. Based on the degree of renovation scope discussed to date, we do not anticipate the need for comprehensive structural engineering. We are including a structural allowance to survey and evaluate the roof structure, confirm floor structure / loading as needed, and support the team if any minor structural adjustments are needed to accomplish the project goals and requirements (i.e. penetrations through load bearing walls/floors/roof, etc.). Services under this allowance will be billed hourly as needed. If significant structural issues are identified—

such as roof, floor, or load-bearing wall repairs resulting from the evaluation—we will provide a separate fee proposal for the additional structural design scope.

13. This proposal includes design and coordination with a selected furniture vendor to develop a furniture design and obtain a furniture quote aligned with the Owner's budget. However, preparation of a comprehensive furniture bid package and management of a formal bid process are not included.
14. We do not anticipate needing plot plan review for the project as the work does not impact the footprint of the building, with the only exterior work being potential roof and/or window replacement. If project scope expands in a way that triggers the need for plot plan review, related services can be provided for an additional fee.
15. We understand that the renovation and repair work is largely limited by budgetary constraints determined by the insurance payout provided for the fire damage, with the potential for some adjustments of space and furniture layout at the County's discretion that may exceed the insurance payout amount. From early SD through CDs, the Design Team will work with Holt Brothers, Guilford County stakeholders, and the County's insurance company to balance the renovation budget with the desired scope of work, allowing the County's stakeholders to make informed decisions regarding the priority order and level of renovation work undertaken for each scope item.

## FEE SCHEDULE

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Clearscapes' hourly rates for 2025 are as follows:

Principal: \$215  
Project Manager: \$190  
Project Architect: \$175  
Architect: \$160  
Interior Designer: \$150  
Admin: \$115

Based on a preliminary project budget of \$4-\$5M, the defined scope of work, and the anticipated project schedule, and the assumptions and clarifications, the following is an anticipated hour and fee breakdown by phase:

|                                    | Hours       | Fee              |
|------------------------------------|-------------|------------------|
| Schematic Design (6 weeks):        | 270         | \$ 45,000        |
| Design Development (8 weeks):      | 360         | \$ 60,000        |
| Construction Documents (10 weeks): | 475         | \$ 80,000        |
| Permitting (4 weeks):              | 110         | \$ 18,000        |
| <b>Total:</b>                      | <b>1215</b> | <b>\$203,000</b> |

**Structural Allowance: \$7,500**

We are enthusiastic about the opportunity to partner with Holt Brothers Construction on the renovation of 201 S. Greene Street. We believe our experience in adaptive reuse and complex renovation projects, paired with Holt Brothers' construction expertise, will ensure a successful project outcome.

Please let us know if you have any questions or require additional information. We look forward to working with you and your team.

Sincerely,

CLESCAPES, P.A.

A handwritten signature in black ink that reads "B. Thompson" followed by a horizontal line.

Brandy Thompson, AIA  
Principal



3 October 2025

Mr. Terence Holt  
Holt Brothers Construction  
c/o Mrs. Brandy Thompson, AIA  
Clearscapes  
(VIA EMAIL)

**SUBJECT:      PROPOSAL FOR PROFESSIONAL DESIGN SERVICES  
                 DESIGN-BUILD OF BUILDING UPFITS AT 201 S. GREENE STREET**

Mr. Holt,

Sigma Engineered Solutions PC (Sigma) is pleased to offer you a proposal for professional services on the above project.

Our understanding of the project comes from the RFQ dated August 2025 posted by Guilford County (Bid #20227), and the documents attached to that email (attached as part of this proposal).

Sigma will provide design services as noted in the original RFQ (italicized portion below) for the following scope with Sigma's scope being in **bold**:

*Guilford County is restoring a facility that was damaged by a fire in July of 2025. A restoration contractor has completed stabilization, mitigation and demolition. The areas affected are the second and third floors of the building. The basement and first floors will be occupied by other County staff during the project. This scope of work is solely for the reconstruction of the space and any repairs related to the fire. The scope will consist of the following items.*

*Generation of floorplans and office configurations*

*Doors and hardware*

*Minor demolition if damage is found*

***Electrical design to replace damaged circuits and provide new circuits as needed***

*Cubicle design, selection and installation*

*Specifications for FF&E, particularly office furniture*

*Roof evaluation*

*Interior finishes (cove base, floor tiles, ceilings, paint, etc.)*

***Evaluation of fire alarm components with replacements as needed***

***Evaluation of existing windows for replacements as necessary***

***Installation of necessary low voltage wiring to replace access control, IT and cameras (see assumptions and exclusions below)***

***Evaluation and replacement/repair of HVAC components***

***Evaluation and potential replacement of plumbing components***

### **Assumptions/Exclusions**

Sigma has made the following assumptions:

1. As the project team has not yet conducted a site visit and the full scope of work remains to be determined, this proposal is based on unit pricing and hourly rates, applied to estimated hours required per phase and based on the hourly billing rates of each proposed team member, the preliminary scope indicated, and the rough construction budget given. The final fee will be determined in conjunction with the negotiation of the Guaranteed Maximum Price (GMP), once the team has a more complete understanding of existing conditions and desired project scope.
2. This proposal is for design services only and is not inclusive of Construction Administration and Close Out services. Once the scope of work is defined and the cost of work is established, CA and Closeout fees will be included in the negotiated GMP.
3. This proposal excludes all fire protection design.
4. This proposal excludes any work 5'-0" outside of the building envelope.
5. Design of any AV and security systems are by "others" with Sigma providing raceway and power infrastructure, however design of telecom wiring and infrastructure, based on the Owner's standards, is included in the proposal.
6. Services related to LEED certification are not included in this proposal.

### **Schedule and Fee**

Sigma will follow the schedule set forth by Holt Brothers and CSPA (Clearscapes PA) as noted in CSPA's proposal dated October 3, 2025.

Our projected fees for each phase are noted below. Our rate schedule is attached. Fee numbers are based on a median hourly rate of \$125/hr.

|                                    |            |                  |
|------------------------------------|------------|------------------|
| Schematic Design (6 weeks):        | 80         | \$ 10,000        |
| Design Development (8 weeks):      | 120        | \$ 15,000        |
| Construction Documents (10 weeks): | 300        | \$ 37,500        |
| Permitting (4 weeks):              | 40         | \$ 5,000         |
| <b>Total:</b>                      | <b>540</b> | <b>\$ 67,500</b> |

We should note that while we have excluded both AV and Security design, we feel that Holt Brothers should carry an allowance of \$25,000 for those services.

Mr. Terence Holt  
Holt Brothers Construction  
(VIA EMAIL)

Please feel free to contact our office should you have any questions.

Sincerely,

A handwritten signature in dark ink, reading "Reggie Adams, P.E.", is centered within a light gray rectangular box. The signature is written in a cursive, flowing style.

Reggie Adams, P.E.

RDA

Enc: Emailed Scope Documents



**HOLT BROTHERS**  
CONSTRUCTION

421 Fayetteville St. Suite 1300  
Raleigh, NC 27601  
919.787.1981

[www.holtbrothersconstruction.com](http://www.holtbrothersconstruction.com)



Request for Qualifications

For

**Design-Build of Building  
Upfits at 201 S. Greene Street**

**Bid Number: 20277**

Commodity Code(s):

90610, 90607, 90626-27, 90652, 90693, 90735  
91815, 92537-38, 95815, 96248

Guilford County Purchasing Department  
Truist Building  
201 West Market Street, Suite #304  
Greensboro, NC 27401

## PROPOSAL SCHEDULE

(Note: The dates below are subject to change)

Request for Letters of Interest and Qualifications

For

**Design-Building of Upfits at 201 S. Greene Street**

**Bid Number 20277**

|                                               |                                              |
|-----------------------------------------------|----------------------------------------------|
| Advertisement Date                            | August 12, 2025                              |
| Non-Mandatory<br>Pre-Proposal ZoomGov Meeting | August 19, 2025, at 10:00 A.M., Eastern Time |
| Last Day for Questions                        | August 20, 2025, at 2:00 P.M., Eastern Time  |
| Proposal Due Date                             | August 28, 2025, at 2:00 P.M., Eastern Time  |

## **I. Project Description**

Pursuant to N.C. Stat. Sec. 143-128.1A, Guilford County is seeking proposals from qualified design-build teams to provide upfits to an existing facility located at 201 S. Greene St, Greensboro NC. The intent of this RFQ is to select a design-build team by qualifications-based selection to provide design, estimating, construction and construction management services to accomplish the renovation goals of Guilford County.

Guilford County seeks to pursue the design-build project delivery method to minimize cost escalation risk, minimize change orders from existing conditions and decrease the overall project schedule. These renovations will take place in a building damaged by a fire but has been stabilized with all damaged materials removed. Work must be planned, scheduled and executed to allow operations to continue in occupied spaces on other floors of the building. Guilford County believes the collaboration provided by the design-build model will provide the best end-product for the citizens and occupants of our spaces.

The expected schedule for the projects is approximately 12-18 months to complete the package of work. The selected Design-Builder will be required to provide a performance and payment bond in accordance with provisions of Article 3 of Chapter 44A of the NC General Statutes.

## **II. Scope of Work**

The design-build team will provide turnkey architectural design, engineering design, contract administration and construction services for the above-referenced projects. All aspects of the project from design through completion are included in this scope of work.

The County may hire a third-party firm to provide an oversight of the design-build team.

## **III. General Information**

**A non-mandatory Pre-Proposal ZoomGov Meeting will be held on Monday, August 19, 2025, at 10:00 A.M., as instructed below. You may join the ZoomGov Meeting from your computer, tablet or smartphone**

For the best results, use Chrome as your web Browser:

<https://www.zoomgov.com/j/1615800026?pwd=Kqu1lY7pa94XqLuJJQTJaLA1JlOtwE.1>

Meeting ID: 161 580 0026

Passcode: 609751

One tap mobile

+16692545252,,1615800026# US (San Jose)

+16468287666,,1615800026# US (New York)

Dial by your location

- +1 669 254 5252 US (San Jose)
- +1 646 828 7666 US (New York)
- +1 646 964 1167 US (US Spanish Line)
- +1 551 285 1373 US (New Jersey)
- +1 669 216 1590 US (San Jose)
- +1 415 449 4000 US (US Spanish Line)

Meeting ID: 161 580 0026

Find your local number: <https://www.zoomgov.com/u/abvqdYnG1X>

Join by SIP

- [1615800026@sip.zoomgov.com](mailto:1615800026@sip.zoomgov.com)

Join by H.323

- 161.199.138.10 (US West)
- 161.199.136.10 (US East)

#### **IV. Proposed Projects and Budget**

##### **Detailed Scope of Work:**

Guilford County is restoring a facility that was damaged by a fire in July of 2025. A restoration contractor has completed stabilization, mitigation and demolition. The areas affected are the second and third floors of the building. The basement and first floors will be occupied by other County staff during the project. This scope of work is solely for the reconstruction of the space and any repairs related to the fire. The scope will consist of the following items.

1. Generation of floorplans and office configurations
2. Doors and hardware
3. Minor demolition if damage is found
4. Electrical design to replace damaged circuits and provide new circuits as needed
5. Cubicle design, selection and installation
6. Specifications for FF&E, particularly office furniture
7. Roof evaluation
8. Interior finishes (cove base, floor tiles, ceilings, paint, etc.)
9. Evaluation of fire alarm components with replacements as needed
10. Evaluation of existing windows for replacements as necessary
11. Installation of necessary low voltage wiring to replace access control, IT and cameras
12. Evaluation and replacement/repair of HVAC components
13. Evaluation and potential replacement of plumbing components

The design-build firm will provide a Design Detail cost estimate and Guaranteed Maximum Price. Existing floor plans and existing building design documents will be provided by the County to the selected firm. This may not represent a full set of construction drawings for the building as the building has been modified over the life of the space.

The total budget for the proposed scope is estimated at \$4-5 million.

#### **V. Criteria for Selection**

The following criteria and weighing of the qualifications criteria will be used to evaluate the proposals.

|                                                                                                                                                                              |            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| A. Experience with Design-Build project delivery in the Public Sector, with preference given to the design firm and construction firm working together on previous projects. | <b>15%</b> |
| B. Experience renovating existing structures in occupied spaces.                                                                                                             | <b>20%</b> |
| C. Proximity to, and familiarity with, the area where the project will be located. This includes the ability to recruit local laborers to execute the work                   | <b>10%</b> |
| D. Ability to execute work comparable to the size, complexity and scope included above                                                                                       | <b>25%</b> |
| E. Past performance with MWBE Firms                                                                                                                                          | <b>15%</b> |
| E. Adherence to cost and schedule on previous projects                                                                                                                       | <b>15%</b> |

#### **VI. Requirements for Electronic Events**

1. All Respondents who plan to submit a proposal must register in the Guilford County's Vendor Self Service (VSS) System. Instructions to register as a Vendor, update registration and submit bids/proposals are available at: <https://www.guilfordcountync.gov/our-county/purchasing/vendor-self-service-vss-program>.
2. Electronic responses should be made through Guilford County's Vendor Self Service automated bidding system at: <https://guilfordcountync.munisselfservice.com>. **For best results, use Chrome as your web Browser.** Click on Vendor Self Service and use the arrow button in the top righthand corner to Login and submit your bid response. Click on the Bid Number to open it, then Click on Create Bid and follow the instructions for each tab. All responses must be submitted electronically by the event date and close time. There will be **NO EXCEPTIONS**. The system cannot accept late submittals.

3. All questions pertaining to this RFQ must be emailed to the Guilford County Purchasing Department at [DG\\_Purchasing@guilfordcountync.gov](mailto:DG_Purchasing@guilfordcountync.gov) in accordance with this event schedule. The bid number and title of the project must be referenced in the email. Each question asked will be answered for all Respondents to view by way of an Addendum and posted in the automated bidding system. No question will be considered after the Q&A close date and time. **NO EXCEPTIONS.** Please note it is the Respondent's responsibility to review all questions, answers and attachments prior to submitting their response.
4. Respondents are responsible for checking the event for any addendums prior to completion and submission of their response. Addendum acknowledgement and requirements, if any, must be included in each submittal.
5. No information regarding the proposed fee is to be included in responses. However, **to complete the items portion of a submittal in Vendor Self Service, open the items tab and only enter a dollar (\$1.00) in the online bid response.**
6. To complete an electronic submittal, be **sure to click the "Submit Bid" button.** Your response will not be part of the submitted responses until submitted via the "Submit Bid" button.
7. Respondents are strongly encouraged to submit their proposal with all required documentation at least twenty-four (24) hours in advance. The County will not be responsible for any technical difficulties that may occur and result in the inability to submit.
8. To receive future notification, you must be registered as a Vendor in the Guilford County's Vendor Self Service System under Commodity Code 90610, 90607, 90626-27, 90652, 90693, 90735, 91815, 92537-38, 95815 and 96248. Please note, Vendors registered under the selected commodity code prior to the opening of this event will receive electronic notification(s) of the activity regarding changes made to the event; however, it is your responsibility to view the event for changes and updates.

**[The reminder of this page has been intentionally left blank]**

## **QUALIFICATIONS AND SUBMISSION REQUIREMENTS**

***Failure to return all required supplemental information and attachments may result in a Provider being deemed non-responsive.***

In order to facilitate the analysis of responses to this RFQ, all Respondents are required to prepare their proposals in accordance with the instructions outlined in this section. To be considered for selection, upload your proposal into the County's Vendor Self Service System and submit all required supplemental information electronically. No information regarding proposed fees is to be included in responses. Proposals should be prepared as simple as possible and provide a straightforward, concise description of the Respondent's capabilities to satisfy the requirements of this RFQ. All pages in your response shall be properly formatted and provide the following basic information:

### **Tab 1: Completed Information Sheet**

- 1.1. On your completed **Guilford County Information Sheet – Attachment 1**, please include the **Primary Contact person's** name and email address which will be used by the County for all future communication.

### **Tab 2: Letter of Interest (Cover Letter)**

### **Tab 3: Project Team Organization Chart**

- 3.1 Discuss the project team structure and provide an organizational chart of staff involved to deliver the project.
- 3.2 Pursuant to section 143-128.1A 8(a), provide a list of licensed contractors, licensed subcontractors and design professionals that the design-builder proposes to use for the project's design and construction. Staff proposed in the RFQ may only be changed by written approval from Guilford County prior to the design-build entity making any staffing changes (see NCGS 143-128.1A section 8(f)).
- 3.3 Provide resumes of construction superintendent(s), project manager(s) and project executive(s) who will be involved in the project.
- 3.4 Provide resumes of cost estimating staff who will be involved in the project.
- 3.5 Certify that each design professional listed on the design-build team, including sub-consultants, was selected based on demonstrated competence and qualification for the services provided, see NCGS 143-128.1A section 8(e).

### **Tab 4: Relevant Experience & Other Important Factors**

- 4.1 Provide a list of Public sector renovations using the design-build delivery method performed in the past 8 years, with emphasis on the previous 5 years. Preferably the design and construction team can demonstrate past projects where they have teamed together using the design-build delivery method.
  - Include budget, schedule and scope of the project
  - Include a summary of change orders showing original GMP and final as-built cost
- 4.2 Provide a list of similar projects for previous Public Sector design-build projects that have been completed recently (less than 5 years). These references must include MWBE participation percentages for the project in addition to cost and schedule performance metrics.
- 4.3 Discuss the project approach in grouping the work by site or trade and how the team will minimize cost and schedule using the design-build approach.
- 4.4 Provide a discussion of current workload and capacity to execute approximately \$13 million of work in approximately 2 years, beginning in late 2022.
- 4.5 Proximity to and familiarity with the areas where the project is located
- 4.8 Discuss any litigation currently active or resolved in the past 5 years.

### **Tab 5: References**

- 5.1 Provide a list of references to include phone numbers and contact names. Include current contact

information pertaining to recent projects.

**Tab 6: Small Business & Entrepreneurship Department (SBED) Participation Plan**

Submit information about participating MWBEs on the MWBE Affidavit forms provided with this RFQ. Utilize the **SBED Affidavits Forms – Attachment 2**

- 6.1 Respondents are required to make a good faith effort to include Minority and Women Business Enterprises (MWBEs) as part of their management team. Describe the plan that your firm has developed to encourage participation by MWBEs and include a copy that plan in your response.
- 6.2 Include documentation of MWBE participation you have achieved over the past three years on public and/or private projects.
- 6.3 Outline specific efforts that your firm takes to notify MWBEs of opportunities to participate.
- 6.4 Describe proposed MWBE goals for the targeted project and how the design team will assist Guilford County with meeting the desired goal.

**Tab 7: Addendum Acknowledgement Form**

Please download to complete, sign and date the **Addendum Acknowledgement Form – Attachment 3**. Be sure to upload the form back in the system to your online response. If no Addendum was issued, please indicate N/A for Not Applicable on the form.

**Tab 8: Attachments**

- Attachment 1 – Guilford County Information Sheet
- Attachment 2 – SBED Affidavits
- Attachment 3 – Addendum Acknowledgement Sheet
- Attachment 4 – Affidavit of Compliance (E-Verify)
- Attachment 5 – W9 Form
- Attachment 6 – RFQ Response Checklist

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## INFORMATION SHEET

Firm Name:

Click or tap here to enter text.

☐ Hub  
Certified
If HUB,  
Specify  
Type☐ Female☐ Disabled☐ American-Indian☐ Asian-American☐ Hispanic☐ Black
☐ Socially &  
Economically  
Disadvantaged

Point of Contact:

Click or tap here to enter text.

Email Address:

Click or tap here to enter text.

Street Address:

Click or tap here to enter text.

City:

Click or tap here to enter text.

State:

Click or tap here to enter text.

Zip Code:

Click or tap here to enter text.

Country:

Click or tap here to enter text.

Phone #

Click or tap here to enter text.

Fax:

Click or tap here to enter text.

Type of Firm:

Click or tap here to enter text.

(e.g. Architectural, Civil Engineering, Surveying, Etc)

## CONSULTING FIRMS

Architectural:

Click or tap here to enter text.

☐
Check  
if HUB

Mechanical:

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Check  
if HUB

Electrical:

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Plumbing:

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Structural:

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Civil:

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if HUB

Landscape:

Click or tap here to enter text.

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Check  
if HUBInterior  
Design:

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☐
Check  
if HUB

Other (specify type):

Click or tap here to enter text.

☐
Check  
if HUB

Other (specify type):

Click or tap here to enter text.

☐
Check  
if HUB

## REQUIREMENTS PERTAINING TO THE PARTICIPATION OF MINORITY BUSINESSES IN GUILFORD COUNTY CONTRACTING

The Guilford County Board of Commissioners established its verifiable minority participation goal of ten (10) percent on March 5, 1990, as recorded in the approved meeting minutes. Respondents must make good faith efforts to contact minority businesses to allow each an equal opportunity to quote on the work involved. In determining whether a Proposer has made Good Faith Efforts, the County will evaluate all efforts made by the Proposer and will determine compliance regarding quantity, intensity, and results of these efforts, in accordance with the ten percent (10%) state goal for Good Faith Efforts compliance laws and guidelines. Any proposal that does not include the required MWBE information and documentation may be considered non-responsive. In February 2017, Guilford County Board of Commissioners established a standing aspirational MWBE participation goal of fifteen percent (15%), as recorded in the approved meeting minutes. The aspirational MWBE goal for this project is fifteen percent (15%). Guilford County encourages each Proposer to meet or exceed the aspirational goals in recruiting MWBE providers.

Guilford County will help any Proposer in this effort. If anyone has questions concerning GC's approach to the minority participation percentage goal, what is covered here, what is covered by the GC resolution, or the NC laws, they should contact the Guilford County Small Business & Entrepreneurship Department (SBED) at 336-641-4565.

**Proposers must submit  
WITH THE Proposal  
the Minority Business Participation Form and Affidavit A or Affidavit B  
Failure to file a required affidavit or documentation with the bid or  
after being notified as the proposed awardee may be grounds for rejection of the bid. R09-02**

### **FORM #1 MINORITY BUSINESS PARTICIPATION**

All Proposers shall make the minority participation disclosures. The undersigned Proposer shall identify **on its bid** the minority businesses that it will use on the project with the total dollar value of the work that will be performed by the minority businesses.

### **FORM #2 MINORITY OUTREACH CALL LOG**

All Proposers shall submit **on its bid** documentation of all contacts made to recruit minority businesses to participate on the current project.

### **FORM #3 GOOD FAITH EFFORTS - AFFIDAVIT A**

If a vendor's committed goal is **less than the established 10% goal**, then the good faith efforts to meet the goal shall be provided. The document must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.

### **FORM #4 SELF-PERFORMANCE, AFFIDAVIT B**

A Proposer that performs all the work with its own workforce may submit an Affidavit (**B**) to that effect in lieu of the participation form and Affidavit (**A**) required above as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).

### **AFTER BID OPENING**

After the bid opening, Guilford County will consider all proposals and determine the Proposer awardee. Upon notification of being the apparent Proposer awardee, the Proposer shall, within 72 hours of the notification of being the awardee, then file the following:

### **FORM #5 WORK TO BE PERFORMED BY MINORITY BUSINESSES – AFFIDAVIT C**

An Affidavit (**C**) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is **equal to or more than the 10% goal** established.

### **FORM #6 MBE DOCUMENTATION FOR CONTRACT PAYMENTS**

The apparent Proposer awardee selected shall provide Guilford County proof of payment to MWBE firms listed in **Form #5 Work To Be Performed By Minority Business** on a monthly basis or submit this information in the County's compliance software system.

## Attach To Bid

do hereby certify that on this project, we will use the following HUB-certified minority business enterprises as vendors, suppliers, or providers of professional services.

**TOTAL**

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

The total dollars on which minority business participation is calculated (\$)\_\_\_\_\_

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

The total percentage of minority participation is (%) \_\_\_\_\_

**\*\*All calculations are based on the total base contract amount.**

**FORM #2**  
**Minority Outreach Call Log**  
**Attach To Bid**

Project \_\_\_\_\_

Prime Proposer: \_\_\_\_\_

Use additional sheets as are necessary

| Company Name<br>Address & Phone |  | Date | Time | Diversity<br>Category | Trade | Comment | Follow Up |
|---------------------------------|--|------|------|-----------------------|-------|---------|-----------|
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |
| Name:                           |  |      |      |                       |       |         |           |
| Phone #:                        |  |      |      |                       |       |         |           |
| Address:                        |  |      |      |                       |       |         |           |
| State/Zip                       |  |      |      |                       |       |         |           |

**FORM #3**  
**GOOD FAITH EFFORTS**  
**AFFIDAVIT A**  
**Attach To Bid**

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

(Name of Proposer)

**Proposers must earn at least 50 points from the good faith efforts listed for their proposal 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 Proposer, or available on State or local government-maintained lists, at least 10 days before the proposal or bid date and notified them of the nature and scope of the work to be performed.
- ☐ **2 --(10 pts)** Made the plans, specifications, and requirements available for review by prospective minority businesses or providing these documents to them at least 10 days before the bids/proposals 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 Proposer organizations identified by the Office of Historically Underutilized Businesses and included in the bid/proposal documents that aid in the recruitment of minority businesses.
- ☐ **5 – (10 pts)** Attended Prebid meetings scheduled by the public owner.
- ☐ **6 – (20 pts)** Helped in getting required bonding or insurance or provided alternatives to bonding or insurance for subconsultants.
- ☐ **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)** Helped 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 Proposer's suppliers to help minority businesses in establishing credit.
- ☐ **9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses 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 sub sub-consultants and suppliers to meet cash-flow demands.

## **FORM #3 – GOOD FAITH EFFORTS, CONTINUED**

### **COMPLIANCE REQUIREMENTS**

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

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

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Proposer 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-Proposer/proposed awardee, copies of quotes received from all firms submitting quotes for that subcontract.
- E. Documentation of any contracts or correspondence to minority business, community, or organizations to meet the goal.
- F. Copy of pre-bid roster
- G. Letter documenting efforts to aid in obtaining required bonding or insurance for minority businesses.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority businesses 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 proposer based on responsiveness

**FORM #4**  
**SELF PERFORMANCE**  
**AFFIDAVIT B**  
**Attach To Bid**

**Affidavit of** \_\_\_\_\_  
(Name of Proposer)

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 Proposer states that the Proposer does not customarily subcontract elements of this type of 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

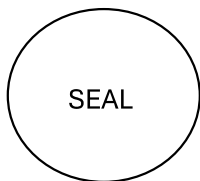
The Proposer agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Proposer agrees to make a Good Faith Effort to utilize minority suppliers where possible.

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

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

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

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



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

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

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

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

**FORM #5**  
**WORK TO BE PERFORMED BY MINORITY BUSINESSES**  
**AFFIDAVIT C**

This affidavit shall be provided by the apparent Proposer awardee within **72 hours** after notification of being the awardee.

(Do not submit this form with the bid. This form shall be submitted only by the Proposer awardee.)

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

(Name of Proposer)

I do hereby certify that on the \_\_\_\_\_

(Project Name)

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

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as 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 Certification | Ethnicity | Work Description | Percent | Dollar Value |
|-----------------------|-------------------------|-----------|------------------|---------|--------------|
|                       |                         |           |                  |         |              |
|                       |                         |           |                  |         |              |
|                       |                         |           |                  |         |              |
|                       |                         |           |                  |         |              |
| <b>Total</b>          |                         |           |                  |         |              |

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

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

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

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

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

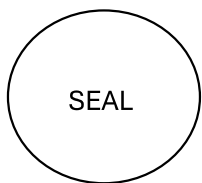
Title: \_\_\_\_\_

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

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

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

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



**FORM #6**  
**MWBE DOCUMENTATION FOR CONTRACT PAYMENTS**

Prime Proposer: \_\_\_\_\_

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

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

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

Period: \_\_\_\_\_

The following is a list of payments made to all sub-consultants and suppliers, including Minority Business Enterprises, on this project for the above-mentioned period.

| FIRM NAME | *TYPE OF MWBE | AMOUNT PAID THIS MONTH | TOTAL PAYMENTS TO DATE | TOTAL AMOUNT COMMITTED |
|-----------|---------------|------------------------|------------------------|------------------------|
|           |               |                        |                        |                        |
|           |               |                        |                        |                        |
|           |               |                        |                        |                        |
|           |               |                        |                        |                        |

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

Approved/Certified by:

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

(Date) \_\_\_\_\_ (Signature) \_\_\_\_\_

SUBMIT WITH EACH PAY REQUEST, FINAL PAYMENT, and FINAL REPORT utilizing this form and/or the County’s compliance software system.

**ADDENDUM ACKNOWLEDGEMENT**

Design-Build of Building Upfits at 201 S. Greene Street

Title of Project

20277

Bid Number

Receipt of the following Addendum is acknowledged:

Addendum no. \_\_\_\_\_ Date \_\_\_\_\_

Addendum no. \_\_\_\_\_ Date \_\_\_\_\_

Addendum no. \_\_\_\_\_ Date \_\_\_\_\_

Addendum no. \_\_\_\_\_ Date \_\_\_\_\_

Addendum no. \_\_\_\_\_ Date \_\_\_\_\_

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

Title \_\_\_\_\_

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

STATE OF NORTH CAROLINA

**AFFIDAVIT**

COUNTY OF GUILFORD

\*\*\*\*\*

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

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).

2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).

3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. Mark "Yes" or "No":

a. YES \_\_\_\_; or,

b. NO \_\_\_\_

4. Employer's subcontractors comply with E-Verify, and if Employer is awarded a contract for this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

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

Print or Type Name: \_\_\_\_\_ State of

North Carolina County of Guilford

Signed and sworn to (or affirmed) before me, this the \_\_\_\_\_

day of \_\_\_\_\_, 20 \_\_\_\_.

My Commission Expires:

\_\_\_\_\_

Notary Public

(Affix Official/Notarial Seal)

## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

|                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                         |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| Print or type<br>See Specific Instructions on page 2. | Name (as shown on your income tax return)                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                         |
|                                                       | Business name/disregarded entity name, if different from above                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                         |
|                                                       | Check appropriate box for federal tax classification (required):<br><input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate<br><br><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____<br><br><input type="checkbox"/> Other (see instructions) ▶ _____ | <input type="checkbox"/> Exempt payee   |
|                                                       | Address (number, street, and apt. or suite no.)                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Requester's name and address (optional) |
|                                                       | City, state, and ZIP code                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                         |
| List account number(s) here (optional)                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                         |

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

|                        |  |  |   |  |  |  |   |  |  |
|------------------------|--|--|---|--|--|--|---|--|--|
| Social security number |  |  |   |  |  |  |   |  |  |
|                        |  |  | - |  |  |  | - |  |  |

|                                |  |  |   |  |  |  |  |  |  |
|--------------------------------|--|--|---|--|--|--|--|--|--|
| Employer identification number |  |  |   |  |  |  |  |  |  |
|                                |  |  | - |  |  |  |  |  |  |

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

|                  |                            |
|------------------|----------------------------|
| <b>Sign Here</b> | Signature of U.S. person ▶ |
|------------------|----------------------------|

|        |
|--------|
| Date ▶ |
|--------|

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

### **Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

## **Updating Your Information**

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## **Penalties**

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## **Specific Instructions**

### **Name**

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name/disregarded entity name” line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the “Name” line and any business, trade, or “doing business as (DBA) name” on the “Business name/disregarded entity name” line.

**Disregarded entity.** Enter the owner's name on the “Name” line. The name of the entity entered on the “Name” line should never be a disregarded entity. The name on the “Name” line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the “Name” line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the “Business name/disregarded entity name” line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

**Note.** Check the appropriate box for the federal tax classification of the person whose name is entered on the “Name” line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the “Name” line is an LLC, check the “Limited liability company” box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter “P” for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter “C” for C corporation or “S” for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the “Name” line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the “Name” line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

## Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

| IF the payment is for . . .                                                            | THEN the payment is exempt for . . .                              |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Interest and dividend payments                                                         | All exempt payees except for 9                                    |
| Broker transactions                                                                    | Exempt payees 1 through 5 and 7 through 13. Also, C corporations. |
| Barter exchange transactions and patronage dividends                                   | Exempt payees 1 through 5                                         |
| Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup> | Generally, exempt payees 1 through 7 <sup>2</sup>                 |

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

### What Name and Number To Give the Requester

| For this type of account:                                                                                                                                                                   | Give name and SSN of:                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| 1. Individual                                                                                                                                                                               | The individual                                                                                          |
| 2. Two or more individuals (joint account)                                                                                                                                                  | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Custodian account of a minor (Uniform Gift to Minors Act)                                                                                                                                | The minor <sup>2</sup>                                                                                  |
| 4. a. The usual revocable savings trust (grantor is also trustee)<br>b. So-called trust account that is not a legal or valid trust under state law                                          | The grantor-trustee <sup>1</sup><br>The actual owner <sup>1</sup>                                       |
| 5. Sole proprietorship or disregarded entity owned by an individual                                                                                                                         | The owner <sup>3</sup>                                                                                  |
| 6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))                                                                               | The grantor <sup>*</sup>                                                                                |
| For this type of account:                                                                                                                                                                   | Give name and EIN of:                                                                                   |
| 7. Disregarded entity not owned by an individual                                                                                                                                            | The owner                                                                                               |
| 8. A valid trust, estate, or pension trust                                                                                                                                                  | Legal entity <sup>4</sup>                                                                               |
| 9. Corporation or LLC electing corporate status on Form 8832 or Form 2553                                                                                                                   | The corporation                                                                                         |
| 10. Association, club, religious, charitable, educational, or other tax-exempt organization                                                                                                 | The organization                                                                                        |
| 11. Partnership or multi-member LLC                                                                                                                                                         | The partnership                                                                                         |
| 12. A broker or registered nominee                                                                                                                                                          | The broker or nominee                                                                                   |
| 13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity                                                                                       |
| 14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))                                           | The trust                                                                                               |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

**\*Note.** Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

### Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

### Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## **RFQ Response Checklist**

***Failure to fully execute and return all required supplemental information and attachments as outlined below may result in a Provider being deemed non-responsive.***

***Please make sure that you sign and have notarized where noted.***

\_\_\_\_\_(Attachment 1) Guilford County Information Sheet

\_\_\_\_\_(Attachment 2) SBED Affidavits

\_\_\_\_\_(Attachment 3) Addendum Acknowledgement Form

\_\_\_\_\_(Attachment 4) Affidavit of Compliance (E-Verify)

\_\_\_\_\_(Attachment 5) W-9 Form

**Addendum #1: (Bid 20277) Non-Mandatory ZoomGov Meeting**  
**Design-Build of Building Upfits at 201 S. Greene Street**

**Online ZoomGov Meeting August 19, 2025, 10:00 AM**

| <b>Name</b>       | <b>Company</b>                      | <b>Email</b>                                                                         |
|-------------------|-------------------------------------|--------------------------------------------------------------------------------------|
| Angelina Meeks    | Guilford County Purchasing          | <a href="mailto:ameeks@guilfordcountync.gov">ameeks@guilfordcountync.gov</a>         |
| Debra Kieft       | Guilford County Purchasing          | <a href="mailto:dkieft@guilfordcountync.gov">dkieft@guilfordcountync.gov</a>         |
| Jordan Mitchell   | Guilford County Purchasing          | <a href="mailto:jmitchell@guilfordcountync.gov">jmitchell@guilfordcountync.gov</a>   |
| Tiffany Johnson   | Guilford County Purchasing          | <a href="mailto:tjohnso4@guilfordcountync.gov">tjohnso4@guilfordcountync.gov</a>     |
| Chrystal Braswell | Guilford County Purchasing          | <a href="mailto:cbraswell3@guilfordcountync.gov">cbraswell3@guilfordcountync.gov</a> |
| Williette Moore   | Guilford County Purchasing          | <a href="mailto:wmoore2@guilfordcountync.gov">wmoore2@guilfordcountync.gov</a>       |
| Olga Wright       | Guilford County Purchasing          | <a href="mailto:owright@guilfordcountync.gov">owright@guilfordcountync.gov</a>       |
| Tari Maynor-Brady | Guilford County Facilities          | <a href="mailto:tmaynor@guilfordcountync.gov">tmaynor@guilfordcountync.gov</a>       |
| O.U. Chavis       | O.U. Chavis Contracting Corporation | <a href="mailto:ochavis@triad.rr.com">ochavis@triad.rr.com</a>                       |
| Bill Smith        | Salas O'Brien                       | <a href="mailto:Bill.smith@salasobrien.com">Bill.smith@salasobrien.com</a>           |
| John Arnaud       | John Arnaud Architect PLLC          | <a href="mailto:john@jarnaud.com">john@jarnaud.com</a>                               |

|                                            |                            |                                                                                                                                                                                                                                            |
|--------------------------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Shawn Adams                                | RIMAK                      | <a href="mailto:sadams@rimak.net">sadams@rimak.net</a>                                                                                                                                                                                     |
| Michael Sutton                             | Integrated Design          | <a href="mailto:Michael.sutton@id-pa.com">Michael.sutton@id-pa.com</a>                                                                                                                                                                     |
| Bob Radcliff                               | 35 North                   | <a href="mailto:bradcliffe@35n.com">bradcliffe@35n.com</a>                                                                                                                                                                                 |
| Sharnate' Pettus                           | Cal Arr Consulting         | <a href="mailto:info@calarrconsulting.com">info@calarrconsulting.com</a>                                                                                                                                                                   |
| Deveney Jeff                               | Holt Brothers Construction | <a href="mailto:djeffs@holtbrothersinc.com">djeffs@holtbrothersinc.com</a>                                                                                                                                                                 |
| Brad Wall<br>Gina Willis                   | Blum Construction          | <a href="mailto:Brad.wall@flblum.com">Brad.wall@flblum.com</a><br><a href="mailto:Gina.willis@flblum.com">Gina.willis@flblum.com</a>                                                                                                       |
| Mark Reyes<br>William Cockerham<br>Monica  | W.C. Construction          | <a href="mailto:mark@wcconstructionco.com">mark@wcconstructionco.com</a><br><a href="mailto:william@wcconstructionco.com">william@wcconstructionco.com</a><br><a href="mailto:monica@wcconstructionco.com">monica@wcconstructionco.com</a> |
| Alexis Mitchell                            | Barr and Barr Construction | <a href="mailto:amitchell@barrandbarr.com">amitchell@barrandbarr.com</a>                                                                                                                                                                   |
| Tanya Dales<br>Dani Watts<br>Brian Carroll | LS3P                       | <a href="mailto:tanyadales@ls3p.com">tanyadales@ls3p.com</a><br><a href="mailto:daniwatts@ls3p.com">daniwatts@ls3p.com</a><br><a href="mailto:briancarroll@ls3p.com">briancarroll@ls3p.com</a>                                             |
| Markus Thomas                              | K.E.I. Architects          | <a href="mailto:Mthomas@keiarchitects.com">Mthomas@keiarchitects.com</a>                                                                                                                                                                   |
| Baylor Brinkley                            | Envisicon                  | <a href="mailto:baylor@envisicon.com">baylor@envisicon.com</a>                                                                                                                                                                             |

|                |                 |                                                                            |
|----------------|-----------------|----------------------------------------------------------------------------|
| Fred Belledini | Clearscapes     | <a href="mailto:fbelledini@clearscapes.com">fbelledini@clearscapes.com</a> |
| Tyrone Harley  | PM Toolbox, LLC | <a href="mailto:tharley@pmtoolboxllc.com">tharley@pmtoolboxllc.com</a>     |

**Addendum #2: (Bid 20277) Question from Bidder**  
**Design-Build of Building Upfits at 201 S. Green Street**

1. Per NC General Statute §143-128.1A, design-build proposer selection may include *Option A*, which allows the design-builder to submit a list of licensed contractors, subcontractors, and design professionals it proposes to use for the project. If Option A is utilized, the design-builder may self-perform work with its own forces and/or enter into negotiated subcontracts, without bidding, with subcontractors identified on the list (including, but not limited to, those submitted).

Can you please confirm whether Guilford County intends to allow proposers to utilize **Option A** under this RFQ?

Yes, we would prefer to use Option A to expedite the schedule for this emergency project.