



ROOFTOP UNIT REPLACEMENTS

AT

**WHITMAN MIDDLE SCHOOL
2500 PARKERS LANE
ALEXANDRIA, VA 22306**

INVITATION FOR BID# MMB- 061-23

INTENT:

It is the intent of this Contract to remove fourteen (14) rooftop units and replace them with fourteen (14) new packaged rooftop units at the specified location. The work shall include all associated demolition rigging, piping, equipment, electrical equipment, controls, insulation, patching, painting and related work as shown on the project drawings and as detailed in these specifications to provide a complete and fully operational installation.

FEDERAL FUNDING

Potential bidders are advised that this procurement will be funded by means of a grant awarded to the Owner from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) pursuant to section 9901 of the American Rescue Plan Act, which amends Title VI of the Social Security Act (42 U.S.C. 801 et seq.) by adding sections 602 and 603 to establish the CSLFRF, enacted on January 27, 2022.

Consequently, the successful bidder will be required to comply with all federal requirements relating to use of CSLFRF funding, including but not limited to payment of local prevailing wages in accordance with the Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148).

**FAIRFAX COUNTY PUBLIC SCHOOLS
OFFICE OF FACILITIES MANAGEMENT
5025 SIDEBURN ROAD**

**FAIRFAX, VA 22032-2637
(703) 764-2457**

In the event of inclement weather that closes the Fairfax County Public Schools Central or Administrative Offices, bids will be due and opened at the same time, the following business day that offices are open. To confirm closing, visit us online at www.fcps.edu.



**FAIRFAX COUNTY PUBLIC SCHOOLS
Whitman Middle School**

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**INVITATION FOR BID
(FOR PROJECT FUNDED BY FEDERAL GRANT)**

1. NOTICE AND INVITATION

The Fairfax County School Board (the “Owner”) hereby invites qualified bidders who are properly licensed in the Commonwealth of Virginia to submit bids for Rooftop Unit Replacements at Whitman Middle School (the “Project”). The Project generally consists of removal of fourteen (14) rooftop units and replace such equipment with fourteen (14) new packaged rooftop units at the specified location. The work includes all associated demolition rigging, piping, equipment, electrical equipment, controls, insulation, patching, painting and related work as shown on the project drawings and as detailed in the specifications to provide a complete and fully operational installation.

2. FEDERAL FUNDING

Potential bidders are advised that this procurement will be funded by means of a grant awarded to the Owner from the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) pursuant to section 9901 of the American Rescue Plan Act, which amends Title VI of the Social Security Act (42 U.S.C. 801 et seq.) by adding sections 602 and 603 to establish the CSLFRF, enacted on January 27, 2022.

Bidders are further advised that the federal stimulus funding process under CSLFRF is still evolving and that new requirements for compliance with CSLFRF may still be forthcoming from federal government and the Owner. Consequently, the successful bidder will be required to comply with all federal requirements relating to CSLFRF funding that are now in effect or that may be announced during performance of any contract awarded hereunder.

3. PREVAILING WAGE OBLIGATIONS

The successful bidder will be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor and set forth here: <https://sam.gov/wage-determination/VA20210178/5>. The decision to award a contract or subcontract must be conditioned upon the acceptance of this wage determination.

4. RECEIPT OF BIDS

Bids shall be submitted to Owner in duplicate, and in the manner described in the Instructions to Bidders, **on or before 2:00 p.m. on June 13, 2023**. Bids shall be delivered and time stamped in **Room 16, Sideburn Support Center, 5025**

INVITATION FOR BID

Sideburn Road, Fairfax, VA 22032 on or before the hour and date designated, at which time they will be opened and read aloud in public.

5. **LUMP SUM**

Bids will be considered on a lump sum basis for the entire work described on the drawings and in the specifications.

6. **DRAWINGS/SPECIFICATIONS**

Drawings and specifications may be examined and one (1) set obtained at the Office of Facilities Management, Room 14, 5025 Sideburn Road, Fairfax, VA 22032-6009.

7. **MINORITY/SMALL BUSINESS**

Minority contractors and small business enterprises are invited and encouraged to submit bids.

8. **COMPLETION TIME**

The Contractor shall substantially complete the project within the time specified GENERAL CONDITIONS Item Number 16. Failure to complete this project within these specified dates without written agreement by FCPS Office of Facilities Management may result in the enforcement of liquidated damages or ineligibility to be awarded contracts on future FCPS Office of Facilities Management projects, or both.

END OF SECTION

INSTRUCTIONS TO BIDDERS

**INSTRUCTIONS TO BIDDERS
(FOR PROJECT FUNDED BY FEDERAL GRANT)**

1. QUALIFICATIONS OF BIDDER:

If a contract is for one hundred twenty thousand dollars (\$120,000.00) or more, or if the total value of all construction removal, repair or improvements undertaken by the bidder within any twelve (12) month period is seven hundred fifty thousand dollars (\$750,000.00) or more, the bidder is required under Title 54, Chapter 11, Code of Virginia (1950) as amended, to show evidence of being licensed as "Class A Contractor." **(Non-Virginia licenses are not acceptable.)**

If a contract is seventy-five hundred dollars (\$7,500.00) or more but less than one hundred twenty thousand dollars (\$120,000.00) the bidder is required to show evidence of being licensed as a "Class B Contractor." The bidder shall place on the outside of the envelope containing the bid and shall place in over his signature whichever of the following notations is appropriate:

"Licensed Class A Virginia Contractor No. _____"

"Licensed Class B Virginia Contractor No. _____"

The Code of Virginia *does not allow an unlicensed contractor to submit a bid* where the resultant contract will require a license.

2. LICENSE REQUIREMENT:

All firms doing business in Fairfax County shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL tax should be directed to the Office of Assessments, telephone (703) 222-8234

3. REGISTRATION OF BUSINESS ENTITY:

Authorization to Transact Business in Virginia: By submitting a bid in response to this solicitation, the bidder represents and warrants as follows: (a) it has authorization to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law; and (b) it shall not allow its existence to lapse or its certification of authority or registration to transact business in Virginia, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of this Contract.

Certificate of Authority: Any foreign business entity transacting business in Virginia shall secure a certificate of authority as required by Title 13.1 or Title 50

INSTRUCTIONS TO BIDDERS

of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733 or (800) 552-7945.

4. MANDATORY PRE-BID MEETING:

A mandatory pre-bid meeting will be held May 25, 2023* at 10:00 a.m. at **Whitman Middle School**, 2500 Parkers Lane, Alexandria, Virginia 22306. Contractors shall meet in the Lobby of the buildings front entrance to sign the meeting roster. **NO ONE WILL BE ADMITTED AFTER 10:05 A.M.**

**All individuals attending the meeting will be required to wear a face covering. In the event of inclement weather on the date of the Mandatory Pre-Bid meeting that delays opening or closes the Fairfax County Public Schools Central or Administrative Offices, the meeting will be rescheduled by Addendum.*

The purpose of the pre-bid meeting is to provide potential Bidders an opportunity to ask questions and obtain clarification about any aspect of this Invitation for Bid. Any changes or clarifications resulting from this pre-bid meeting will be issued in a written addendum.

It is important that all Bidders have a clear understanding of the specifications, scope of work, and requirements of this solicitation. Attendance at the pre-bid meeting will be a prerequisite for submitting a Bid; attendance will be evidenced by the Contractor's signature on the meeting roster. Bidders who do not attend the pre-bid meeting will not be permitted to submit a Bid. If a Bidder submits a Bid and did not attend the mandatory pre-bid meeting, the Bid will not be considered.

5. BIDDER'S QUESTIONS:

All contact between prospective Bidders and the Owner with respect to this solicitation will be formally held at scheduled meetings or will be conducted in writing through the Owner's Office of Facilities Management. Except as expressly authorized herein, communications between prospective bidders, their agents and/or representatives and any representative of the Owner concerning interpretation of all or any portion of this solicitation are prohibited and may not be relied upon for any purpose. No interpretation of the meaning of these documents will be made to any bidder orally.

Any question or request for an interpretation must be in writing and submitted to the Owner by U.S. Mail, commercially recognized overnight delivery service, or hand delivery during business hours addressed as follows:

Angela C. Mylechraine, CPPB, VCO, Contract Administrator
Fairfax County Public Schools

INSTRUCTIONS TO BIDDERS

Department of Facilities and Transportation Services
Office of Facilities Management
5025 Sideburn Road, Room 16
Fairfax, Virginia 22032
Telephone Number: (703) 764-2457
Email: acmylechrain@fcps.edu

In order to be eligible for consideration, a question or request for interpretation must be received on or before the date that is three (3) days before the date established for the submission of bids.

6. ADDENDA:

Any and all such responses, interpretations and any supplemental instructions will be returned in writing to the prospective bidder requesting such interpretation, or will be in the form of written addenda which, if issued, will be not later than two (2) days prior to the date fixed for submission of bids.

It shall be the responsibility of each bidder to monitor the Owner's website for Addenda issued at the following URL: <https://www.fcps.edu/get-involved/doing-business-fcps/facilities-management-current-solicitations> Notwithstanding any provision to the contrary, the failure of any bidder to monitor the Owner's website or to otherwise receive any addenda shall neither constitute grounds for withdrawal of a bid nor relieve such bidder from any responsibility for incorporation of the provisions of any addenda into its bid as submitted. All addenda so issued shall become part of the Contract Documents.

7. BID SECURITY:

Bids \$100,000 or above shall be accompanied by a certified or cashier's check, cash escrow, or a bidder's bond in an amount not less than five percent (5%) of the amount of the bid, made payable to the Fairfax County Public Schools, Fairfax, Virginia. No other form of bid security is acceptable. The bidder's bond shall be issued by a surety company licensed to conduct business in Virginia and shall be on the form herein provided. Said check, escrow, or bond shall be given as a guarantee that the bidder will enter into a contract if awarded the work and, in case of refusal or failure to enter into said contract, the check, escrow, or bond will be declared forfeited to the Owner.

8. CONTRACT SECURITY:

A. For contracts \$100,000 or above, the successful bidder, simultaneously with execution of the Contract, shall furnish a Performance Bond and a Payment Bond each in an amount equal to one hundred percent (100%) of the Contract price. Bonds shall be on the forms herein provided and shall be issued by a surety company licensed to conduct business in

INSTRUCTIONS TO BIDDERS

Virginia. The Owner reserves the right to request documentation from the surety company as to its financial capabilities, past experience, etc. In the event that the Contractor's surety company becomes insolvent, bankrupt or in any way is incapable of providing the services and/or security of the Performance and Payment Bonds, the Contractor shall within ten (10) days furnish a new Payment and a new Performance Bond to the Owner from a surety licensed to conduct business in Virginia. Any additional cost in securing new bonding will be the responsibility of the Contractor.

- B. In lieu of a payment or performance bond, a bidder may furnish a certified check, cashier's check, or cash escrow in the face amount required for the bond.
- C. The Contractor shall have the option to require all subcontractors furnishing labor and materials under this Contract in excess of two thousand five hundred dollars (\$2,500.00) to furnish to the successful bidder a payment bond in the amount of fifty percent (50%) of the work sublet to the Contractor.

9. BIDS:

- A. In order to be eligible for consideration, bids shall be made in accordance with the following instructions:
 - 1. Before submitting a bid, each bidder shall become familiar with the requirements of the Contract Documents and shall include in its bid prices a sum sufficient to cover the cost of all items and services described herein.
 - 2. Bids shall be made upon the Bid Form prepared and furnished by the Owner, a copy of which is bound herein. Bids must contain a bid for each of the items shown on the bid form. Failure to complete all requested prices shall be cause for rejection of the bid. The signatures of all persons shall be in longhand. The completed form shall be without erasures, exceptions, or alterations.
 - 3. Bidders are required to submit with their completed Bid Forms the Bid Bond (or other authorized bid security) and all attachments to the Bid Form. Failure to provide all required documentation with the Bidder's response to this IFB may result in rejection of the Bid. In addition, a Bidder's failure to sign the Bid Form (or any attachment) or Bidder's taking exception to the terms of any of the Contract Documents may result in rejection of its Bid.

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4. Bids shall not contain any recapitulation of the work to be done, and alternate bids will not be considered unless called for. No oral, telegraphic bids or modifications will be considered.
5. Bids shall be time-stamped in **Room 16, Sideburn Support Center, 5025 Sideburn Road, Fairfax, VA 22032**, on or before the day and hour set for the opening of bids, enclosed in an opaque sealed envelope and bearing the title of the work, name of the bidder, and the bidder's Virginia Class A Contractor's License number. Bids may be modified or withdrawn by bidders prior to, but not later than, the time fixed for the opening of same.
6. It is the sole responsibility of each bidder to deliver its bid timely and to the precise location indicated as the place for receipt and opening of bids. Accordingly, bids which are transmitted via US Mail, commercial courier, or overnight delivery service to the Owner are not guaranteed to be brought timely to the attention of the Owner's official who is responsible for opening the bids for this project.

10. OPENING OF BIDS:

Bids will be opened and read aloud at the time and place set forth in the Invitation for Bid. Bidders, or their representative, and other interested persons may be present at the opening of the bids.

11. WITHDRAWAL OF BIDS:

- A. A bidder may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or materials made directly in the completion of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder must give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure. Any claim of a bidder for withdrawal shall be governed by Section 2.2-4330(B)(1) of the Code of Virginia, as amended.
- B. No bid may be withdrawn when the result would be the awarding of this Contract to another bidder in which the ownership of the withdrawing bidder is more than five percent (5%).

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- C. If a bidder is permitted to withdraw a bid under this section, he may not thereafter, for compensation, supply any material or labor, or perform any subcontract or other work agreement for the person or firm to whom the Contract is ultimately awarded, or otherwise benefit directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

12. REJECTION OF BIDS:

The Owner reserves the right to accept or reject any or all bids, and/or to waive any informality which does not affect the price, quality, quantity or delivery scheduling for the goods, services or construction being procured in any one or all bids received.

13. AWARD OF CONTRACT:

- A. The Contract will be awarded, if at all, to the lowest responsive and responsible bidder complying with these instructions and the Invitation for bid. The responsibility of bidders will be considered in making the award.
- B. Bids shall be made upon the Bid Form prepared and furnished by the Owner, a copy of which is bound herein. Bids must contain a bid for the base bid and unit prices shown on the bid form. Failure to complete all requested prices shall be cause for rejection of the bid. Bids shall be stated both in writing and in figures. The signatures of all persons shall be in longhand. The complete form shall be without erasures or alternations.

Bids will be evaluated on the basis of a firm fixed price and award will be made to the lowest responsive and responsible bidder complying with all provisions of the Invitation for bid.

- C. Unless cancelled or rejected, a responsive bid from the responsible bidder shall be accepted as submitted, except that if a bid from the responsive and responsible bidder exceeds available funds, then the Owner may negotiate with such responsive and responsible bidder to obtain a contract price that is within available funds.

Negotiation may be undertaken when there is insufficient time to re-advertise with a modified specification and/or there are not clearly definable elements of the specifications, which can be removed to permit a re-advertisement or it is otherwise in the best interest of the Owner to negotiate.

If negotiation is undertaken, the Owner may negotiate changes in the solicitation with the lowest responsive and responsible bidder to obtain a satisfactory price within available funds. If a satisfactory price cannot be

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agreed upon, then the negotiation shall be terminated, and the solicitation cancelled.

- D. The Owner reserves the right to require any one or more bidders to submit the items specified in Subsection I below. Bidders are advised that it is the Owner's intention not to award a contract hereunder to any bidder whose past performance shows his firm to be generally late in performance of contracts or services. The ability of the lowest bidder with to provide the required bonds will not in and of itself establish the responsibility of the bidder.
- E. The Owner reserves the right to defer award of Contract for a period of forty-five (45) calendar days after due date of bids. Bid prices shall be binding for forty-five (45) calendar days following bid-opening date, unless extended by mutual consent of all parties.
- F. A "responsive bidder" shall mean a bidder who has submitted a bid, which conforms, in all material respects, to the requirements of the bidding documents.
- G. A "responsible bidder" shall mean a bidder who has the capability, in all respects, to perform fully the Contract requirements and the moral and business integrity and reliability, which will assure good faith performance. In determining responsibility, the following criteria will be considered:
 - 1. The ability, capacity, and skill of the bidder to perform the Contract or provide the service required;
 - 2. The ability of the bidder to perform the Contract or provide the service promptly, or within the time specified, without delay or interference;
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - 4. The quality of the bidder's performance on previous contracts or services;
 - 5. The previous and existing compliance by the bidder with laws and ordinances relating to contracts or services;
 - 6. The sufficiency or the financial resources and ability of the bidder to perform the Contract or provide the service.
 - 7. The quality, availability and adaptability of the goods or services to the particular use required;

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8. When the bidder is in arrears to the Owner or the County, or has defaulted on a project for the Owner or the County, or is delinquent on taxes and assessments to the County or on amounts due the Owner;
 9. Such other information as may be deemed by the Owner as having a bearing on the decision to award the Contract, including, but not limited to:
 - a. The ability, experience and commitment of the bidder properly to plan, schedule, coordinate, and execute the work under the Contract.
 - b. Whether the bidder has ever been debarred from bidding or found ineligible for bidding on any other projects.
 - H. The purpose of subparagraph G, above, is to enable the Owner to select the bid which is in its best interests
 - I. The Owner reserves the right to require from any one or more bidders the following:
 1. Upon request of Owner, Bidders agree to submit references within one (1) business day after the opening of the bid;
 2. A list of a minimum of five (5) projects completed by the bidder within the last two (2) years that are similar in size and scope to the services described herein; and
 3. Financial statements indicating current financial status, prepared in accordance with generally accepted accounting principles, by a C.P.A. licensed to do business in Virginia.
 - J. Notice of intention to award a contract, as well as the award of the contract, will be posted on the website of the Owner's website at the following URL: <https://www.fcps.edu/school-board/school-board-meetings> While the school division staff may communicate procurement results to bidders or offerors, each bidder or offeror has the responsibility to monitor the website for its own purposes.
14. PROTEST OF AWARD OR DECISION TO AWARD:
- A. Any bidder may protest the award or the decision to award this Contract by submitting a protest in writing to Fairfax County Public Schools (FCPS) Superintendent or Designee, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first;

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however, that no protest shall lie for a claim that the selected bidder is not a responsible bidder.

The written protest must include the basis for the protest and the nature of the relief sought. The Owner's Division Superintendent or Designee shall issue a decision in writing within ten (10) days after receipt of the protest, stating the reasons for the action taken.

This written decision shall be final unless the bidder appeals within ten (10) days after receipt of the written decision by instituting legal action as provided in the Code of Virginia.

- B. If, prior to the award, it is determined that the decision to award is arbitrary and capricious, then the sole relief shall be as hereinafter provided:
 - 1. Where the award has been made but performance has not yet begun, the performance may be declared void by the School Board.
 - 2. Where the award has been made and performance has begun, the Owner may declare the Contract void upon a finding that the action is in the best interest of the School Board.
 - 3. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the Contract up to the time of declaration. In no event shall the performing contractor be entitled to lost profits.
 - C. Pending final determination of a protest, the validity of the award shall not be affected by the fact that protest has been filed.
 - D. An award need not be delayed for the period allowed a bidder to protest, but in the event of a timely protest, no further action to award this Contract will be taken unless the Owner's Division Superintendent or Designee makes a written determination that proceeding without delay is necessary to protect the public interest or that the bid offer will expire.
15. APPEAL OF DETERMINATION OF NON-RESPONSIVENESS OR NON-RESPONSIBILITY:
- A. Any bidder who, despite having the lowest bid, is determined not to be a responsive or responsible bidder for this Contract shall be notified in writing by the Owner. The written notice shall state the basis for the determination, and this determination shall be final unless the bidder appeals within ten (10) days after receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.

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- B. If it is determined that the Owner's decision was arbitrary and capricious, or otherwise in error, and this Contract has yet to be awarded, the sole relief available to the bidder shall be a finding that the Bidder is a responsive and responsible bidder for this Contract.
- C. If the award has already been made and performance has begun, then the Owner may declare the Contract void upon a finding that this action is in its best interests. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

16. SUBSTITUTIONS:

Unless otherwise provided in the bid documents, the name of a certain brand, make, or manufacturer is intended to restrict bidders to the specific brand, make, or manufacturer specified. Substitute materials proposed as equal to materials specified shall be submitted in writing to the Owner by the bidder with full substantiating data for evaluation no later than ten (10) days prior to bid opening; substitute materials shall not be considered for evaluation after this time period. Proposed substitute materials which equal or exceed the performance standard of the specified materials in the sole judgment of the Owner will be included in an "Approved Substitute Materials Bulletin" to be issued prior to the bid opening date.

For purposes of this solicitation and any resulting contract, the Owner's designation of any one or more manufacturers, subcontractors and/or suppliers as "pre-approved" shall signify only that such manufacturers, subcontractors and suppliers previously have submitted work samples to the Owner that satisfied the Owner's requirements. The Owner's designation of any one or more manufacturers, subcontractors and/or suppliers as "pre-approved" shall in no event be deemed or construed to be a representation or warranty on the part of the Owner of any such manufacturer's, subcontractor's or supplier's capability of or capacity for (in terms of financial wherewithal, personnel and equipment availability, managerial ability, product quality or otherwise) performing or furnishing any portion of the Work in accordance with the requirements of this solicitation. Each bidder shall conduct such independent investigation into the qualifications, experience and abilities of its selected manufacturers, subcontractors and suppliers, as it deems appropriate under the circumstances.

17. FORM OF CONTRACT:

The Contract Documents are defined in the General Conditions to consist of "The Standard Construction Contract Agreement between Owner and Contractor, the Conditions of the Contract (General Conditions), the Supplemental Terms and

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Conditions, the Drawings, the Specifications, the Bid Form (including all attachments), the Invitation for Bid, the Instructions to Bidders, all Addenda issued prior to execution of the Contract, and all Modifications thereto."

18. VIRGINIA FAIR EMPLOYMENT ACT:

The Contractor shall comply with the Virginia Fair Employment Act.

19. SMALL, MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:

A. The Fairfax County Human Rights Ordinances and relevant Federal and State Laws, orders and regulations require Fairfax County to ensure that its procurement practices are non-discriminatory and promote equality of opportunity for Small, Minority and Women-Owned Business Enterprises.

B. Small Business/Organization is an independently owned and operated business which, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years.

C. Minority Business is a business concern that is at least 51 percent owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals. Such individuals shall include Asian American, African American, Hispanic American, Native American, Eskimo or Aleut.

D. Woman-Owned Business is a business concern that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women who are U.S. citizens or legal resident aliens.

20. FAILURE TO EXECUTE CONTRACT:

In the event that the successful bidder fails or refuses to execute the Contract within fifteen (15) days after he has received notice of the acceptance of his Bid, such bidder shall forfeit the bid security (which was submitted in form of Certified or Cashier's Check, cash escrow, or bid bond) with his Bid, as liquidated damages for such failure or refusal. The amount of such forfeiture will not exceed

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the lesser of: (a) the face amount of the bid security; and (b) the difference between the bid for which the bid security was provided and the next low bid for the Project.

21. SAFETY RESOLUTION:

Safety: The Contractor shall abide by, and shall be subject to, the Fairfax County Construction Resolution, as adopted by the Fairfax County Board of Supervisors on December 8, 2003, and as excepted and modified below:

- A. It shall be required that each bid submitted for a contractor for construction, alteration, and/or repairs, or any other construction, shall include a list of all the following actions which have become final in the three years prior to the bid submission.
 - 1. Willful violations, violations for failure to abate, or repeated violations, for which the bidder was cited by (a) the United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan for any other state; or
 - 2. Three (3) or more serious construction safety violations for which the bidder was cited by the (a) United States Occupational Safety and Health Administration; (b) the Virginia Occupational Safety and Health Administration; or (c) the occupational safety and health plan from any other state.
 - 3. Termination of a contract between the Contractor and the County by the purchasing agent of his designee for safety violations.
- B. If the bidder has not received or been the subject of any such violations in the three years prior to the bid submission, then the bidder shall so indicate by certification of Safety Violations. The bidder will also be indicated on this form each state in which work was performed in the three (3) years prior to the bid submission.
- C. No construction contract, as discussed above, may be bid on by any bidder or Contractor who has been the subject of any citations for the type and number of violations listed in Paragraph A, above, which have become final within three (3) years prior to bid submission.
 - 1. Notwithstanding the language of Paragraph C, above, any bidder or Contractor who has been the subject of a violation, as described in Paragraph A(1), which has become final within three (3) years prior to bid submission, may bid, after a mandatory waiting period of

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- twelve (12) months from the date the violation became final, if the bidder or Contractor satisfactorily passes eligibility evaluation.
2. Notwithstanding the language of Paragraph C, any bidder or Contractor who has been the subject of the type and number of violations as described in Paragraph A (2), which have become final within three (3) years prior to bid submission, may bid, after a mandatory waiting period of twelve (12) months from the date the last such violation became final, if the bidder or Contractor satisfactorily passes an eligibility evaluation.
 3. Notwithstanding the language of Paragraph C, above, any bidder or Contractor who has previously been terminated from a County contract, as described in Paragraph A(3), within three (3) years prior to the bid submission, may bid, after a mandatory waiting period of twelve (12) months from the date of termination, if the bidder or Contractor satisfactorily passes an eligibility evaluation.
- D. Prior to bidding on a project under the provisions of Paragraph C above, a Contractor may request that a determination be made regarding its eligibility to submit a bid on a contract under the terms of this resolution. However, this request for determination and any subsequent adjudication process must be completed prior to submitting a bid on any project and the request for determination must be received no later than twenty-one (21) days before bids are due, unless otherwise stated in the Advertisement for Bid.
- E. No Contractor or Subcontractor contracting for any part of the contract work shall require any laborer, mechanic, or other person employed in the performance of the Contract to work in surroundings or under working conditions which are hazardous or dangerous to his safety, as determined under construction safety standards promulgated by the U.S. Department of Labor, or the Virginia Department of Labor and Industry.
- F. No Contractor awarded a County construction contract shall knowingly employ or contract with any person, company, or corporation for services pursuant to that contract if such person, company or corporation could not have been awarded such contract due to the restrictions above.
- G. The Contractor shall also certify in writing that all safety related information provided in accordance with the Safety Resolution and contract requirements are complete, accurate and truthful.

INSTRUCTIONS TO BIDDERS

- H. The failure to provide information requested pursuant to this Resolution or the failure to conform to the certification requirements of this Resolution shall be grounds for disqualifying a prospective bidder.

22. COMPLIANCE WITH LAWS

The successful bidder shall be required to comply with all local, state, and federal laws, rules, regulations and ordinances (collectively, the "Laws and Regulations") applicable to the contract and to the work contemplated hereby. Each and every provision of Laws and Regulations required to be included in this IFB shall be deemed to be inserted herein, and any contract resulting from this IFB shall be read and enforced as though such provisions were included herein and if, through mistake or otherwise, any such provision of Laws and Regulations is not included or is not correctly included, then upon application of either party the Contract shall forthwith be physically amended to make such insertion.

23. COMPLIANCE WITH AMERICAN RESCUE PLAN ACT

The successful bidder shall specifically be required to comply with Section A of 31 CFR Part 35 of the American Rescue Plan Act, as amended.

24. CANCELLATION, REJECTION OF BIDS; WAIVER OF INFORMALITIES

The Owner reserves the right to cancel this solicitation, to accept or reject any or all bids submitted hereunder, or to waive any informality in any one or all bids received.

25. PREFERENCE FOR DOMESTIC GOODS

Pursuant to Section 2CFR § 200.322, the following regulation applies to the award of any contract under this IFB:

- A. As appropriate and to the extent consistent with law, the Owner should, to the greatest extent practicable in the award and performance of this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as

INSTRUCTIONS TO BIDDERS

aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

25. ASHRAE SPECIFICATIONS

The Work to be performed must comply with the following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE):

- (1) ASHRAE-90 A-1980 (Sections 1-9).
- (2) ASHRAE-90 B-1975 (Sections 10-11).
- (3) ASHRAE-90 C-1977 (Section 12).

END OF SECTION

BID FORM
(For Project Funded with Federal Grant)

Name of Contractor

Address

Date

TO: FAIRFAX COUNTY SCHOOL BOARD
FAIRFAX COUNTY PUBLIC SCHOOLS
DEPARTMENT OF FACILITIES AND TRANSPORTATION SERVICES
OFFICE OF FACILITIES MANAGEMENT
5025 Sideburn Road, Room 16
Fairfax, Virginia 22032

Gentlemen:

The undersigned, having examined the Documents, Drawings, and Specifications entitled:

ROOFTOP UNIT REPLACEMENTS
at
WHITMAN MIDDLE SCHOOL

which comprise the Contract Documents and having visited the site and examined all conditions affecting the work, hereby proposes and agrees to furnish all labor, materials, and equipment to perform all operations necessary to complete the entire work in strict accordance with the Contract Documents for the following amount (set forth in words and figures):.

BASE BID AMOUNT FOR WHITMAN MIDDLE SCHOOL:

_____ Dollars \$ _____

*MANUFACTURER: _____

***The undersigned agrees to bid and to use only one Manufacturer from the Owner's approved list and shall furnish and install only the above indicated Manufacturer's product.**

1. **Certain Agreements of the Bidder.** The undersigned Bidder hereby makes the following representations, warranties and covenants to the Owner, which representations, warranties and covenants are intended to be relied upon by the Owner in making an award of the above-referenced Contract:

- (a) Bidder has included in its bid all costs due to the Commonwealth of Virginia and County of Fairfax Sales and Use Taxes.
- (b) The undersigned bidder is cognizant of Conflict of Interest provisions in the Virginia Code and specified in General Conditions, Paragraph 2.
- (c) The undersigned bidder agrees, if awarded the Contract, to perform Substantial and Final Completion of the Work on or before the respective Substantial and Final Completion Dates established in Summary of Work.
- (d) The Owner reserves the right to accept or reject any or all bids or to waive any informality in any one or all bids received.
- (e) The undersigned bidder acknowledges receipt of any and all Addenda which may have been issued by the Owner, and acknowledges that the cost, if any, of revisions set forth therein has been included in the bidder's prices.
- (f) The Owner reserves the right to defer award of Contract for a period of forty-five (45) days after due date of bids and the undersigned agrees that this Bid Form will remain open and binding during such period of time.
- (g) The undersigned bidder hereby acknowledges that time is of the essence to the Contract and agrees to commence the Work in compliance with the response times established in accordance herewith and to fully complete the Project within the specified time, including normal inclement weather delays. The undersigned hereby covenants and agrees to achieve timely completion of all Work described herein and to comply with all emergency and non-emergency response times established pursuant to the Contract.

2. **Minority or small business firm's information.** Please check the following information relevant to your firm: (See Instructions to Bidders, Paragraph 19, for definitions)

Virginia Small Business and Supplier Diversity Certification Number: _____

SWaM Certification Type:

Minority Business Firm	Yes ___	No ___
Small Business Firm	Yes ___	No ___
Women-Owned Firm	Yes ___	No ___

The above information is requested for statistical purposes only. All bidders tendering responses will receive equal consideration for award.

3. **Safety:** The successful bidder shall abide by, and shall be subject to, the Fairfax County Construction Resolution, as adopted by the Fairfax County Board of Supervisors on December 8, 2003, and as modified and excerpted in the Instruction to Bidders (see Paragraph 21 the “Safety Resolution”).

Bidder’s disclosure pursuant to the Safety Resolution (as stated above):

(additional pages may be attached, as necessary for a complete response by the bidder)

4. **Incorporation by Reference:** This solicitation and any contract awarded hereunder are subject to all Laws and Regulations (as defined in the Instructions to Bidders).
5. **List of public jurisdictions** (States and District of Columbia) in which Bidder performed work in the 3 years prior to bid submission:

(additional pages may be attached, as necessary for a complete response by the bidder)

6. **Bidder Affirmations and Certifications:** By signing this Bid, the undersigned bidder hereby confirms, certifies, and agrees as follows:

(a) the undersigned has not received or been the subject of safety violations in the three (3) years prior to this Bid Submission and is in compliance with the requirements of Item 11 above.

(b) neither the undersigned Bidder nor any employee of the Bidder who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child;

(c) unless expressly disclosed in an attachment to this Bid on the Bidder's letterhead stationery, neither the undersigned Bidder nor any employee of the Bidder who will have direct contact with students has been convicted of a crime of moral turpitude;

(d) the undersigned does not and shall not during the performance of the contract for goods and services in the Commonwealth of Virginia; knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986;

(e) the Owner reserves the right to accept or reject any proposed subcontractor or supplier; and

(f) the undersigned affirms the certifications and agreements set forth in Attachments A-1 through A-4 to this Bid Form, each of which will be signed by a duly-authorized representative of Bidder and submitted to the Owner with this Bid Form.

The undersigned Bidder acknowledges and agrees that it will be deemed to have made each of the above certifications effective as of Bidder's execution of this Bid Form and upon acceptance of any Purchase Order, Task Order or Notice to Proceed issued to Bidder by the Owner under any contract awarded in response to this IFB.

Contractor

Address

Email Address

Telephone Number

Facsimile Number

Principal's Name (Signature)

Title

IFB #MMB-061-23
Bid Form for Project funded by Federal Grant

Principal's Name (Printed)

Virginia Contractors License No.

Virginia State Corporation Commission
Identification Number (or attach an
explanation as to why such is not
required pursuant to Virginia Code §
2.2-4311.2)

Fairfax County Business/Professional/Occupation License Number (BPOL #): _____

END OF SECTION

CERTIFICATION REGARDING DEBARMENT OR SUSPENSION

The following certification is required to be submitted by each Bidder with its Bid Form:

1. The Bidder certifies, to the best of its knowledge and belief, that neither the Bidder nor its Principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts from the United States federal government procurement or nonprocurement programs, or are listed in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* issued by the General Services Administration.
2. "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions).
3. The Offeror shall provide immediate written notice to Fairfax County Public Schools' Division Superintendent if, at any time prior to award, the Bidder learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. This certification is a material representation of fact upon which reliance will be placed when making the award. If it is later determined that the Bidder rendered an erroneous certification, in addition to other available remedies, the Fairfax County School Board may terminate the contract resulting from this solicitation for default.

Printed Name of Representative: _____

Signature/Date: _____ / _____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

Certification Regarding Ethics in Public Contracting

In submitting this Bid, and signing below, Bidder certifies the following in connection with its Bid and any resulting contract:

Check one:

1. I have not given any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to any public employee or official have official responsibility for a procurement transaction.

2. I have given a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value to a public employee or official have official responsibility for a procurement transaction, but I received consideration in substantially equal or greater value in exchange.

If 2 is selected, please complete the following:

Recipient: _____

Date of Gift: _____

Description of the gift and its value:

Description of the consideration received in exchange and its value:

Printed Name of Bidder Representative: _____

Signature/Date: _____ / _____

Company Name: _____

Company Address: _____

City/State/Zip: _____

**ACKNOWLEDGEMENT OF CERTAIN CONTRACT PROVISIONS REQUIRED
FOR PROJECT FUNDED WITH FEDERAL GRANT**

In addition to other provisions required by the Federal agency or Owner, the Bidder acknowledges and agrees that any contract entered into hereunder will contain all contract provisions set forth in Appendix II to 2 C.F.R. Part 200 available for review here: <https://tinyurl.com/34tyfu5n>. The federally-required contract provisions include but are not limited to the following:

- (A) **Remedies for Contractor Breach**. For contracts in excess of simplified acquisition threshold, currently set at \$250,000, the contract will address administrative, contractual, or legal remedies for breach or violation of contract terms by the contractor, including associated penalties as appropriate.
- (B) **Termination for Cause and Convenience**. For contracts in excess of \$10,000, the contract will provide for termination for cause and convenience by the Owner.
- (C) **Equal Employment Opportunity**. The contract will include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Ex. Order 11375, "Amending Ex. Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (D) **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)**. The contract will include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors will be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors will be required to pay wages not less than once a week. The current prevailing wage determination issued by the Department of Labor is set forth <https://sam.gov/wage-determination/VA20210178/5>. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Owner will be required to report all suspected or reported violations to the Federal awarding agency.
- (E) **Copeland Anti-Kickback Provisions**. The contract will include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors

and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Owner will be required to report all suspected or reported violations to the Federal awarding agency.

- (F) **Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). The contract will include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor will be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.
- (G) **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts of amounts in excess of \$150,000 will contain a provision that requires the parties to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) **Debarment and Suspension (Ex. Orders 12549 and 12689).** The contract resulting from this IFB will not be awarded to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Ex. Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Ex. Order 12549.
- (I) **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Bidders who submit bids in amounts exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or

employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- (J) **Procurement of Recovered Materials**. The contract will require the parties to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

The undersigned acknowledges and agrees that the foregoing provisions will be included in any contract awarded pursuant to this IFB.

Printed Name of
Representative: _____

Signature/Date: _____ / _____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

BYRD ANTI-LOBBYING CERTIFICATION

31 U.S.C. 1352 et seq.

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions [as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be

subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The undersigned Bidder certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder understands and agrees that the provisions of 31 U.S.C. § 3801, *et seq.*, apply to this certification and disclosure, if any.

Printed Name of
Representative: _____

Signature/Date: _____

Company Name: _____

Address: _____

City/State/Zip: _____

TIN No: _____

BID BOND

(BIDS \$100,000 OR HIGHER)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____ of _____ (hereinafter called the "Principal"), and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in _____, and authorized to do business in the Commonwealth of Virginia as a surety (hereinafter called the "Surety"), are held and firmly bound unto FAIRFAX COUNTY SCHOOL BOARD (hereinafter called the "Obligee") in the full and just sum which is equal to 5% of the total amount of the Principal's Bid (as that term is defined below), as submitted to the Obligee (such total amount referred to herein as the "Total Bid"), in good and lawful money of the United States of America, to be paid upon demand of the Obligee, for the payment of such sum well and truly to be made, the Principal and the Surety bind themselves, their respective successors, and permitted assigns, jointly and severally and firmly by these presents. The Total Bid is the aggregate amount (including amounts set forth with respect to any and all Alternates) set forth on the Principal's Bid Form for performance of the work described below, as submitted to and maintained by the Obligee (such Bid Form referred to herein as the "Bid"). The Surety hereby acknowledges and agrees that the Bid shall be deemed to be incorporated by reference in this Bid Bond to the same extent as if set forth fully herein.

WHEREAS, the Principal intends to submit, or has submitted to the Obligee, a Bid for the Principal to perform work for the Obligee, designated as:

(hereinafter called the "Project") and,

WHEREAS, the Principal desires to provide this Bid Bond in lieu of a certified check or cash escrow otherwise required to accompany the Principal's Bid.

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT, if the Bid be accepted by the Obligee, and if the Principal shall, within ten days after the date of receipt of a written Notice of Award from the Obligee or any agency or department thereof, (i) execute a Contract in accordance with the Bid and upon the terms, conditions and price set forth therein, in the form and manner required by the Obligee, (ii) execute a sufficient and satisfactory Performance Bond in the amount of 100% of the total Contract Sum and a sufficient and satisfactory Payment Bond in the amount of 100% of the total Contract Sum, each payable to the Obligee, on a form prescribed by Obligee and with a surety satisfactory to Obligee, and (iii) provide the Obligee with copies of all required insurance policies, then this obligation is to be void; otherwise this obligation shall be and remain in full force and in the event of the failure

BID BOND

of any or all of the foregoing requirements to be satisfied within the time period specified above, the Principal and the Surety immediately shall pay to the Obligee, upon demand, the lesser of: (a) the amount hereof and (b) the difference between the Bid and the next low bid for the Project, in each case in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

Based upon the Surety's present knowledge and information, the Surety knows of no reason why it would not issue payment and performance bonds on behalf of the Principal for the above-referenced Project. The foregoing statement shall not be construed as a commitment on the part of the Surety to issue either or both of such bonds on behalf of the Principal.

The obligations evidenced hereby shall constitute the joint and several obligations of the Principal, the Surety, and their respective successors and permitted assigns.

Unless the context requires otherwise, capitalized terms not otherwise defined in this Bond shall have the meanings assigned to them in the Contract Documents.

IN WITNESS WHEREOF, we have hereunto set our signatures and seals this __ day of _____, 20____, all pursuant to due authorization.

Principal

(SEAL)

By: _____

Name: _____

Title: _____

Address: _____

Surety

(SEAL)

By: _____

Attorney-in-Fact (Attach Copy
of Power of Attorney)

Name: _____

Title: _____

BID BOND

Address: _____

Countersigned for the
Commonwealth of Virginia:

By: _____
Resident Agent

Address: _____

END OF SECTION

PERFORMANCE BOND

(BIDS \$100,000 OR HIGHER)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____ of (hereinafter called the "Principal"), and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ and authorized to transact business in the Commonwealth of Virginia as a surety (hereinafter called the "Surety"), are held and firmly bound unto the FAIRFAX COUNTY SCHOOL BOARD (hereinafter called the "Obligee") in the sum of _____ Dollars (\$_____) lawful money of the United States of America for the payment of which well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally and firmly by these presents, to perform all Work in accordance with the requirements of the Contract Documents for the Project.

WHEREAS, the Principal has entered into a certain written agreement with the Obligee, dated as of the ____ day of _____, 20____, (hereinafter called the "Contract"), for _____, which Contract is by reference made a part hereof;

WHEREAS, the Principal is obligated to furnish security with respect to its obligation to perform the work to be performed under the Contract; and

WHEREAS, the Principal desires to furnish this Performance Bond in lieu of a certified check or cash escrow otherwise required to be provided to the Obligee.

NOW THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE SUCH THAT, if the Principal and its successors or assigns, or any of them shall:

Well and truly and in good, sufficient, and workmanlike manner perform or cause to be performed the Contract, and each and every of the covenants, promises, agreements, warranties, and provisions to be performed by the Principal set forth therein, in strict conformity with the plans and specifications, and complete the same within the time period specified therein, all as may be amended from time to time by the parties thereto, and fully indemnify and save harmless the Obligee from all costs and damages which it may suffer by reason of the Principal's failure to do so and fully reimburse and repay the Obligee all costs and expenses which it may incur in making good any such default, then these obligations shall be null and void, otherwise they shall remain in full force and effect.

PERFORMANCE BOND

PROVIDED, HOWEVER, that this bond is subject to the following conditions and limitations:

- (a) In no event shall the Surety, or its successors or assigns be liable hereunder for a greater sum than the amount of this bond.
- (b) No action on this bond shall be brought unless within one year after: (i) completion of the Contract, including the expiration of all warranties and guarantees; or (ii) discovery of the defect or breach of warranty, if the action be for such, in all other cases.

The Surety, for value received, on behalf of itself and its successors and assigns, hereby stipulates and agrees that the obligations of the Surety and of its successors and assigns under this bond shall not in any manner be impaired or affected by: (a) any extension of time, modification, omission, addition or amendment of or to the Contract or the work to be performed thereunder; (b) any payment thereunder before the time required therein; (c) any waiver of any provision thereof; or (d) any assignment, subletting or other transfer of all or of any part thereof or of any work to be performed or of any moneys due or to become due thereunder; and the Surety, for itself and its successors and assigns, does hereby waive any right to receive notice of any and all of such extensions, modifications, omissions, additions, amendments, payments, waivers, assignments, subcontracts and transfers.

The Surety hereby stipulates and agrees that, in the event that the Obligee declares the Principal to be in default, the Surety will promptly, at the Obligee's election: (a) perform and complete the work to be performed under the Contract in accordance with the terms, conditions and covenants set forth therein with a duly licensed and qualified contractor designated by Obligee; (b) obtain bids from qualified contractors for completing the work to be performed under the Contract in accordance with the terms, conditions and covenants set forth therein and, upon determination by the Obligee and the Surety of the lowest responsible and responsible bidder, (i) arrange for a contract between such bidder and the Obligee and (ii) make funds available directly to the Obligee, or to such contractor(s) as the Obligee shall designate, to pay the costs of completion less the balance of the contract price as such may have been adjusted by change order (such amount, including other costs and damages for which the Surety may be liable hereunder, not to exceed the penal sum set forth in the first paragraph hereof); or (c) remedy the default. The Surety further stipulates and agrees that, within 45 days after its receipt of written notice from the Obligee specifying the Obligee's election of (a), (b) or (c) above, the Surety shall have resumed performance of the work or shall have caused the performance of the work to have been resumed, in accordance with the Obligee's election. In the event the Surety fails to resume the Work within such 45 day period, the Obligee may elect to perform or arrange for the performance of the Work at the sole cost and expense of the Surety in addition to any other rights and remedies available to Obligee. As employed herein, the phrases (i) "balance of the contract price" shall mean

PERFORMANCE BOND

the total amount payable by the Obligee to the Principal under the Contract after all proper adjustments have been made, less the aggregate of all amounts paid by the Obligee to the Principal thereunder and (ii) "resume the Work" shall mean the commencement and diligent performance of actual work activities at the site, as demonstrated by discernable daily progress at the rate contemplated by the Contract. All payments to be made by the Surety hereunder shall be paid within thirty (30) days after the Surety's receipt of a request or demand therefor.

The Obligee's omission to call upon the Surety in any instance shall in no event release the Surety from any obligation hereunder.

All notices, requests, demands and other communications which are provided hereunder, shall be in writing and shall be deemed to have been duly given upon the hand delivery thereof during business hours, or upon the earlier of receipt or three (3) days after posting by registered mail or certified mail, return receipt requested, or on the next business day following delivery to a reliable overnight delivery service, if to the Principal or the Obligee, to the addresses set forth in the Contract, and if to the Surety, to the address set forth beneath its signature.

The obligations evidenced hereby shall constitute the joint and several obligations of the Contractor, the Surety, and their respective heirs, executors, administrators, successors and assigns.

Unless the context requires otherwise, capitalized terms not otherwise defined in this Bond shall have the meanings assigned to them in the Contract Documents.

[SIGNATURES ON FOLLOWING PAGE]

PERFORMANCE BOND

IN WITNESS WHEREOF, the Principal and Surety have caused this Performance Bond to be signed and sealed by their duly authorized representatives as of the ____ day of _____, 20____.

(SEAL)

Principal

By: _____

Name: _____

Title: _____

Address: _____

Surety

(SEAL)

By: _____

Attorney-in-Fact (Attach Copy
of Power of Attorney)

Name: _____

Title: _____

Address: _____

Countersigned for the
Commonwealth of Virginia:

By: _____

Resident Agent

Address: _____

END OF SECTION

PAYMENT BOND

(BIDS \$100,000 OR HIGHER)

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____ of (hereinafter called the "Principal"), and _____, a corporation created and existing under the laws of the State of _____, and having its principal office in the City of _____ and authorized to transact business in the Commonwealth of Virginia as Surety (hereinafter called the "Surety") are held and firmly bound unto FAIRFAX COUNTY SCHOOL BOARD (hereinafter called the "Obligee" in the sum of Dollars (\$_____) lawful money of the United States of America, for the payment of which well and truly to be made, the said Principal binds itself and its successors and assigns, and the said Surety binds itself and its successors and assigns, all jointly and severally, firmly by these presents to pay for all labor performed and material furnished in accordance with the Contract Documents for the Project.

WHEREAS, the Principal has entered into a certain written agreement with the Obligee, dated as of the ____ day of _____, 20__ (hereinafter called the "Contract"), for _____, which Contract is by reference made a part hereof.

WHEREAS, the Principal is obligated to furnish security with respect to its obligation to pay for all labor performed and material furnished pursuant to the Contract; and

WHEREAS, the Principal desires to furnish this Payment Bond in lieu of a certified check or cash escrow otherwise required to be provided to the Obligee.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE SUCH THAT, if the Principal and its successors or assigns, or any or either of them shall:

Pay or cause to be paid the wages and compensation for labor performed and services rendered of all persons engaged in the prosecution of the work provided for therein, whether such persons be agents, servants or employees of the Principal, and of its successors or assigns, or of any subcontractor or any assignee thereof, including all persons so engaged who perform the work of laborers or of mechanics regardless of any contractual relationship between the Principal, or its assigns, or any subcontractor or any assignee thereof, and such laborers or mechanics, but not including office employees not regularly stationed at the site of the work, and further, shall pay or cause to be paid all lawful claims of subcontractors and of materialmen and other third persons arising out of or in connection with the Contract and the work, labor, services, supplies and materials furnished in and about the performance and completion thereof, then these obligations shall be null and void, otherwise they shall remain in full force and effect.

PAYMENT BOND

PROVIDED, however, that this bond is subject to the following conditions and limitations:

- a. All persons who have performed or rendered services, as aforesaid, all subcontractors, and all persons, firms, corporations, including materialmen and third persons, as aforesaid, furnishing work, labor, services, supplies and material under or in connection with the Contract or in or about the performance and completion thereof, shall have a direct right of action (subject to the prior right of the Obligee under any claim which it may assert against the Principal and its successors, and assigns and/or the Surety and its successors and assigns) against the Principal and its successors, and assigns and/or the Surety and its successors and assigns on this bond, which right of action shall be asserted in proceedings instituted in the State in which such work, labor, services, supplies or material was performed, rendered or furnished, or where work, labor, services, supplies or material has been performed, rendered or furnished, as aforesaid, in more than one State, then in any such State. Insofar as permitted by the laws of such State, such right of action shall be asserted in a proceeding instituted in the name of the Obligee to the use and benefit of the person, firm or corporation instituting such action and of all other persons, firms and corporations having claims hereunder, and any other person, firm or corporation having a claim hereunder shall have the right to be made a party to such proceedings (but not later than one year after the performance of the Contract including the expiration of any warranty or guarantee) and to have such claim adjudicated in such action and judgment tendered thereof. Prior to the institution of such a proceeding by a person, firm or corporation in the name of the Obligee, as aforesaid, such person, firm or corporation shall furnish the Obligee with a bond of indemnity for costs, which bond shall be in a form and in an amount satisfactory to the Obligee.
- b. Neither the Surety nor its successors or assigns shall be liable hereunder for any damages or compensation recoverable under any worker's compensation or employer's liability statute.
- c. In no event shall the Surety, or its successors or assigns be liable hereunder for a greater sum than the amount of this bond, or subject to any suit, action or proceeding thereon that is instituted by any person, firm or corporation under the provisions of the above section(s), later than one year after such person last performed labor or last furnished or supplied materials.

And the Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligations of the Surety and of its successors and assigns, and this bond shall in no way be impaired or affected by any extension of time, modification, omission, addition or change in or to the Contract or the work to be

PAYMENT BOND

performed thereunder, or by any payment thereunder before the time required therein, or by a waiver of any provision thereof, or by an assignment, subletting or other transfer thereof, or of any part thereof, or of any work to be performed or of any moneys due or to become due thereunder; and the Surety, for itself and its successors and assigns, does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby stipulates and agrees that any and all things done and omitted to be done by and in relation to executors, administrators, successors, assignees, subcontractors, and other transferees, shall have the same effect as to the Surety and its successors and assigns, as though done or omitted to be done by and in relation to the Principal.

The Principal, for itself and its successors and assigns, and the Surety, for itself and its successors and assigns, do hereby expressly waive any objection that might be interposed as to the right of the Obligee to require a bond containing the foregoing provisions, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon by any person, firm, or corporation, including subcontractors, materialmen and third persons, for work, labor services, supplies or material, performed, rendered or furnished as aforesaid, upon the ground that there is no law authorizing the Obligee to require the foregoing provisions to be placed in this bond.

Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Principal shall promptly furnish a copy of this Bond or shall permit a copy to be made on behalf of such potential beneficiary.

The obligations evidenced hereby shall constitute the joint and several obligations of the Contractor, the Surety, and their respective heirs, executors, administrators, successors and assigns.

Unless the context requires otherwise, capitalized terms not otherwise defined in this Bond shall have the meanings assigned to them in the Contract Documents.

IN WITNESS WHEREOF, we have hereunto set our signatures and seals this __ day of _____, 20____, all pursuant to due authorization.

(SEAL)

Principal

By: _____

Name: _____

Title: _____

PAYMENT BOND

Address: _____

Surety

(SEAL)

By: _____
Attorney-in-Fact (Attach Copy
of Power of Attorney)

Name: _____
Title: _____

Address: _____

Countersigned for the
Commonwealth of Virginia:

By: _____
Resident Agent

Address: _____

END OF SECTION

GENERAL CONDITIONS

GENERAL CONDITIONS

1. DEFINITIONS:

- A. Architect. The duly licensed individual or entity who has been engaged by the Owner to observe performance of the Work and to consult with and advise the Owner during the construction process. As employed herein, the term "Architect" may refer to an individual, an organization or to the Architect's authorized representative.
- B. Change Order. A written order to the Contractor signed by the Owner, the Architect, and the Contractor, which authorizes a change in the Work, an adjustment to the Contract Sum, and/or an adjustment to the Contract Period. The latest edition of AIA Standard Form G701 shall be utilized.
- C. Construction Schedule. The schedule for completion of the Work. The Construction Schedule shall be developed utilizing a Critical Path method of scheduling, indicating time periods allotted for the performance of all constituent parts of the Work within the Contract Period.
- D. Contract or Contract Documents. The terms "Contract" and "Contract Documents" shall be used interchangeably herein and shall consist of the following:
 - 1. The signed Agreement
 - 2. The General Conditions of the Contract, which appear herein;
 - 3. The Drawings and Specifications;
 - 4. The Supplementary Conditions;
 - 5. Any Addenda issued prior to execution of the Agreement;
 - 6. The Notice of Award issued by the Owner to the Contractor;
 - 7. The Notice to Proceed issued by the Owner to the Contractor;
 - 8. Any modifications which are issued subsequent to the execution of the Agreement and which may take the form of a Work Order, a Change Order, or written interpretations issued by the Architect;
 - 9. The Contractor's Payment and Performance Bonds;

GENERAL CONDITIONS

10. The Bidding Documents, which shall include the Contractor's completed Bid Proposal Form and the Instructions to Bidders; and
 11. All provisions required by Law or Regulation to be incorporated herein, regardless of whether any such provision is referred to or set forth expressly in these Contract Documents.
- E. Contract Period. The period of time allotted in the Contract Documents for completion of the Work, as such period may be adjusted from time to time in the manner prescribed herein.
 - F. Contract Sum. The total amount payable to the Contractor for performance of the Work. The Contract Sum is stated in the Contract Documents and shall be subject to adjustments in the manner specified herein.
 - G. Contractor. The corporation, limited liability company, partnership or other person or entity that contracts with the Owner to perform the Work. As employed herein, the term "Contractor" may refer to an individual, an organization, or to the Contractor's authorized representative.
 - H. Critical Path. The logical and necessary sequence through which all Work items must be completed within their respective timeframes or the completion date for the Project will change. A delay in the completion of any Work item that is on the Critical Path necessarily causes a corresponding delay to the Date of Substantial Completion.
 - I. Date of Final Completion. The date certified by the Owner/Architect as the date upon which the Work is completely finished, which event shall be achieved by the Contractor within the time period specified in Schedule of Completion. Work consisting of the completion of punch-list items, submission of O&M Manuals, any and all other Contract requirements being completed by the Contractor.
 - J. Date of Substantial Completion. The date certified by the Owner/Architect as the date upon which the Work has been sufficiently completed to allow the Work to be utilized by the Owner for the purpose for which it was intended. Such event shall be achieved by the Contractor within the time period specified in Schedule of Completion.
 - K. Day. The term "day" shall mean "calendar day."
 - L. Defective. An item described herein as "defective" shall be deemed to be unsatisfactory, faulty, or deficient in that it does not conform to the requirements of the Contract Documents, or does not meet the

GENERAL CONDITIONS

- requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to the Date of Final Completion of the Work (unless responsibility for the protection thereof has been assumed by the Owner as of an earlier date).
- M. Director, Office of Facilities Management. The official in charge of day to day construction matters for the Owner. The Director may designate a representative to act on his or her behalf.
- N. Float. The period of time between the early start date and the late start date, or the early finish date and the late finish date of any of the activities set forth on the Construction Schedule. The Owner shall have and retain exclusive ownership of the Float.
- O. Laws and/or Regulations. Any and all federal, state, and local laws, rules, regulations, ordinances, codes, and/or orders of any and all governmental bodies, agencies, authorities, and/or courts, which are applicable to the Work (or any aspect thereof) and are in effect at any time or from time to time during the Contract Period, including but not limited to Laws and/or Regulations applicable to projects funded by CSLFRF funds.
- P. Notice. Notice shall mean written notice. Written notice shall be deemed to have been duly served on the Contractor if delivered by U.S. Mail, hand delivery, or facsimile transmission to the Contractor's office at the Project or to the business address or fax number of the Contractor as stated in its Bid Form Proposal; or if delivered in person to the Contractor, to the Contractor's foreman or superintendent for the Project, or any officer or director of the Contractor. Unless otherwise specified herein, Notice shall be deemed to have been duly served on the Owner if delivered by U.S. Mail, hand delivery, or facsimile transmission (with a duplicate copy transmitted by another means of delivery authorized hereunder) to the Office of Facilities Management, Fairfax County Public Schools, 5025 Sideburn Road, Fairfax, Virginia 22030, fax number (703) 239-0462.
- Q. Notice to Proceed. A written notice from the Owner to the Contractor, which gives consent for commencement of the Work. Unless otherwise provided, Work shall commence on the date specified in the Notice to Proceed.
- R. Overhead. All costs of administration, field office and home office costs (including extended costs), general superintendence, office engineering and estimating costs, other required insurance, materials used in temporary structures (not including form work), additional premiums on the Performance and Payment Bonds of the Contractor, the use of small tools,

GENERAL CONDITIONS

scheduling costs, cumulative impact costs and all other costs incidental to the performance of a change in the Work or to the cost of doing business. Small tools are defined as any tool with a replacement value less than \$1,000.

- S. Owner. The School Board of Fairfax County, Virginia, its authorized representatives and employees.
- T. Project. The entire improvement of which this Contract and the Work contemplated hereby forms a part. The Project may include construction and/or other activities that are to be performed by the Owner or by one or more Separate Contractors.
- U. Separate Contractor. Any corporation, limited liability company, partnership or other person or entity that contracts with the Owner to perform one or more portions of the Project, other than the Work.
- V. Shop Drawings. All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Contractor and are submitted by the Contractor to illustrate a portion of the Work. Shop Drawings are not Contract Documents.
- W. Site. The area upon or in which the Contractor's operations are performed and such other areas adjacent thereto as may be designated as such by the Architect. The Site may be shared by the Contractor with the Owner and with Separate Contractors and their subcontractors.
- X. Subcontractor. Any corporation, limited liability company, partnership or other person or entity, other than an employee of the Contractor, who contracts with the Contractor to furnish or who actually furnishes labor, materials, services or equipment, or any combination thereof to the Contractor in connection with the Work.
- Y. Submittal Schedule. A schedule for submission to the Architect of all required shop drawings, equipment data, and the like, which reflects lead times of critical submittals and is coordinated with the Construction Schedule for timely progress.
- Z. Sub-Subcontractor. Any corporation, limited liability company, partnership or other person or entity, other than an employee of a Subcontractor, who contracts with a Subcontractor to furnish, or who actually furnishes labor, materials, service or equipment, or any combination thereof to a Subcontractor in connection with the Work.

GENERAL CONDITIONS

- AA. Surety. Any entity that has executed as Surety the Contractor's performance and/or payment bonds securing performance of the Work contemplated by this Contract and/or providing for protection of claimants who have and fulfill contracts to supply labor or materials to the Contractor in connection with the Work.
- BB. Work. Everything explicitly or implicitly required to be furnished or performed under the Contract Documents. The Work may represent the whole, or a necessary and interdependent part of, the Project.

Number and Gender of Words. Whenever the Contract so admits or requires, all references to one number shall be deemed to extend to and include the other number, whether singular or plural, and the use of any gender shall be applicable to all genders.

2. INDEMNIFICATION:

The Contractor hereby assumes all liability for and agrees to indemnify and hold harmless the Owner and its Members, officers, authorized representatives and employees (each of whom shall be referred to herein as an "Indemnified Party") from and against any and all claims, losses, costs, damages, penalties, liabilities and fees (including reasonable attorneys' fees) and expenses resulting from: (i) any material breach of the representations, warranties, covenants and agreements of the Contractor contained in the Contract Documents; (ii) any injuries to persons or property caused by the negligence or other wrongful conduct of the Contractor, any Subcontractor, or any of its or their respective employees or authorized representatives; (iii) any claims filed by the Contractor (or by a Subcontractor, if permitted by law) that are adjudicated in favor of the Owner; or (iv) any other claim arising in any other manner-out of or in connection with the performance of this Contract by or on behalf of the Contractor.

Notwithstanding the foregoing, the Contractor will in no event be obligated hereunder to indemnify or hold harmless any Indemnified Party against liability for damage arising out of bodily injury to persons or damage to property suffered in the course of the Work, caused by or resulting solely from the negligence of such Indemnified Party.

3. CONFLICT OF INTEREST:

The provisions of the State and Local Government Conflict of Interests Act (Va. Code § 2.2-3100, *et seq.*) and Article IV of the Virginia Public Procurement Act entitled "Ethics in Public Contracting" (Va. Code § 2.2-4367 *et seq.*) are incorporated herein by reference. The Contractor shall incorporate the above conflict-of-interest clause in each subcontract entered into hereunder.

GENERAL CONDITIONS

4. EXAMINATION OF SITE:

Bidders are required to visit the site, compare the Drawings and Specifications with any work in place, and inform themselves of all conditions, including other work, if any, being performed. Failure to visit the site in no way relieves the successful bidder from the necessity of furnishing any materials or performing any work that may be required to complete work in accordance with Drawings and Specifications without additional cost to the Owner.

5. INSURANCE:

A. Contractor's Statutory and Legal Liability Insurance

During the Contract Period, the Contractor shall, at its own expense, purchase and maintain insurance to provide coverage for claims resulting from the Contractor's performance of the work. Such coverage shall extend to work performance by Subcontractors, persons or organizations directly or indirectly hired by the Contractor or any subcontractor in connection with the work, or any other person or organization who may cause liability to be incurred by the Contractor or any Subcontractor. Such coverage shall include, but not be limited to, the following:

1. Claims arising under workers' compensation, disability, or other related benefits programs.
2. Claims resulting from bodily injury, occupational illness or death of any employees performing the work.
3. Claims resulting from bodily injury, illness disease or death of any persons in contact with the work, but who are not engaged as employees.
4. Claims arising under personal injury liability coverage for injury to any employees, which are directly or indirectly attributable to his employment for performance of the work.
5. Claims arising under personal injury liability coverage for injury to any person not an employee which are attributable to performance of the work.
6. Claims arising for damage or destruction of tangible property, including loss of use of the affected property as a result.
7. Claims arising from pollution, including Loading and Unloading Cargo, Cargo In-transit, Site Pollution Clean-up Operations, and On-Going Contamination.

GENERAL CONDITIONS

- B. During the term of the Contract, the Contractor must maintain the following insurance with companies authorized to do business in Virginia. The Owner shall be designated on each policy as "The Fairfax County School Board" as an additional insured except for workers' compensation.
1. Workers Compensation including Occupational Disease and Employer's Liability Insurance: Statutory coverage as required by the District of Columbia, Maryland, and Virginia Workers Compensation Law, including provision for voluntary D.C. benefits as required in labor union agreements.
 2. Employer's Liability:

Bodily Injury by Accident -- \$100,000 Each Accident
Bodily Injury by Disease -- \$500,000 Policy Limit
Bodily Injury by Disease -- \$100,000 Each Employee
 3. Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10 01 (or a substitute form providing equivalent coverage) with limits of \$1 million per occurrence and \$2 million aggregate per project to include the following:

Contractual liability as required by the indemnification provision of Paragraph 1.

Personal injury liability, including offenses related to employment.

Coverage of explosion, collapse, or underground hazards.

Broad form property damage liability, including completed operations coverage.
 4. Business Auto Liability Insurance: including owned, non-owned and hired vehicles with policy limits of \$1,000,000 combined single limit per accident.
 5. Pollution Liability Insurance covering the Contractor's completed operations. This insurance must include sudden and gradual coverage for third-party liability including defense costs and completed operations. The coverage must be maintained during the term of the contract and at least three years following ins completion/termination.
 6. Umbrella/Excess Liability Insurance with coverage limits of \$5,000,000.

GENERAL CONDITIONS

C. Additional Requirements:

1. The limits of liability of the insurance described may be superseded if the limits prescribed by law are greater.
2. If any insurance has been issued on a "claims made" basis, then Contractor must comply with either of the following conditions.
 - a. Provide insurance for all required coverage for a period of two (2) years after final completion. Such coverage shall be subject to a retroactive date that is not later than the commencement of performance under the Contract, or
 - b. Procure insurance for the extended reporting period endorsement for the policy or policies in force during the term of the Contract.
3. Notice of Insurance: Proof of insurance for each type of coverage listed herein shall be provided within ten (10) days after the Contractor's receipt of the Award Letter, and no work shall proceed unless all such insurance is in effect. The Contractor shall not allow any Subcontractor to commence work on its subcontract until all such insurance of the Subcontractor has been obtained and approved by the Contractor and found to be in accordance with the Contract. The Contractor certifies by commencement of the Work that its insurance and that of its Subcontractors is in effect and meets the requirements set forth herein.
4. Notice of Cancellation: The Contractor will give thirty (30) days prior written notice to the Owner if the policies are to be terminated or if any changes are made during the life of the Contract which will affect in any way the insurance requirements in the contract.
5. Copies of Insurance Policies: Upon demand, the Contractor shall provide the Owner with a copy of each policy, which the Contractor and each of its Subcontractors carry to meet the insurance requirements of the Contract, together with receipted bills evidencing proof of premium payment.
6. Owner's Liability Insurance: The Owner may, at its own expense, purchase and maintain its own liability insurance to protect against claims which may arise in connection with the work, or the Owner may self-insure such risks.

GENERAL CONDITIONS

7. No Waiver: Nothing contained herein shall have the effect of waiving or shall be deemed to affect a waiver of the Owner's sovereign immunity under law.

6. COMPLIANCE WITH LAWS; PERMITS, FEES, AND NOTICES:

The successful bidder shall be required to comply with all local, state and federal laws, rules, regulations and ordinances applicable to the Contract and to the services contemplated thereby. The successful bidder shall be required to obtain, at its expense, all permits, licenses and other authorizations necessary for the performance of the services, except that the Owner shall obtain, at its expense, all Building Permits that are required for completion of the Project. The successful bidder shall be responsible for giving all required notices and certifications, and for complying with all laws, ordinances, rules, regulations and directives of any public authority bearing on the performance of the work, regardless of whether those notices, certifications, laws, ordinances, rules, regulations and directives are expressly referenced in the Contract.

7. OCCUPIED AREA:

- A. The Contractor hereby certifies that: (i) neither the Contractor nor any employee of the Contractor who will have direct contact with students has been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child; and (ii) absent prior Notice to the Owner, neither the Contractor nor any employee of the Contractor who will have direct contact with students has been convicted of a crime of moral turpitude. The foregoing certification shall be binding upon the Contractor throughout the Contract Period and the Contractor hereby covenants and agrees to provide the Owner with immediate Notice of any event or circumstance that renders such certification untrue. The Contractor hereby covenants and agrees that it will require this certification to be included in every subcontract of every tier in order that the provisions contained herein will be binding upon each Subcontractor and Sub-subcontractor. The Contractor will ensure that no worker shall perform Work in occupied areas during school hours unless prior written approval has been granted by the Owner and proper safety precautions have been exercised to isolate the area of the Work.
- B. Alcoholic beverages, illegal drugs, and weapons are prohibited on the Site and shall constitute grounds for immediate removal from the Site of the Project. The Contractor shall ensure that neither its employees nor those of any Subcontractor shall fraternize in any manner with any student of Fairfax County Public Schools at the Site of the Work. The Owner shall have the right to remove from the job Site any person whose presence the

GENERAL CONDITIONS

Owner deems detrimental to the best interests of the Fairfax County Public Schools. Any individual who is removed from the Site pursuant to this paragraph may not return to such Site or to that of any other project of Owner without the prior written permission of the Owner.

- C. Drug-Free Workplace. During the performance of the Contract, the Contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. As employed herein, the term "drug-free workplace" shall mean each site for the performance of work hereunder.

8. CLEANING:

The Contractor shall be totally responsible for periodic cleaning up of the building and premises daily. In addition to general broom cleaning, the Contractor shall remove all refuse, waste materials and debris of any kind regardless as to who may have left same. All such refuse shall be removed from the property of the Owner and disposed of in a legal manner to the end that at all times the building and premises shall present a neat, orderly and workmanlike appearance. The definition of "periodic" shall mean - "as necessary and/or at the direction of the Owner or his representative."

9. SUBCONTRACTORS:

Unless otherwise specified in the Contract Documents, within ten (10) days after the award of the Contract, the Contractor must submit a written statement to the Owner setting forth the name and address, and telephone number of each proposed Subcontractor and Sub-subcontractor and the portion of the Work and materials for which each such Subcontractor or Sub-subcontractor is responsible.

10. ASSIGNMENT AND LEGAL REPRESENTATIVES:

The Contract Documents shall not be assigned, sublet or transferred, in whole or in part, by operation of law or otherwise, by either of the parties hereto except with the prior written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall operate to

GENERAL CONDITIONS

release or discharge the assignor from any duty or responsibility under this Agreement.

11. TIME OF START:

The Contractor shall commence work within ten (10) calendar days after the date stated as the date to proceed in the Notice to Proceed. All work shall be performed during regular school business hours (7am – 5pm) only. Work performed outside of regular school business hours must be approved by the FCPS project manager or an FCPS representative prior to the work being performed.

12. EXTENSION OF TIME - NO WAIVER:

The Contractor shall be entitled to an extension of time for delay in completion of the Work only if obstructed or delayed in the commencement, prosecution or completion of any part of the work by any act or delay of the Owner, or by riot, insurrection, war, pestilence, acts of public authorities, fire, earthquakes, or by strikes, or other causes, which causes of delay mentioned in this Paragraph, in the opinion of the Owner, are entirely beyond the expectation and control of the Contractor. In such event, the period specified in any Notice to Proceed or Purchase Order for the completion of the work shall be extended by such time as shall be determined by the Owner. The parties agree that no extension beyond the date of completion fixed by the terms of the Contract shall be effective unless granted in writing and signed by the Owner.

13. LIQUIDATED DAMAGES:

The Owner and the Contractor hereby acknowledge and agree that time is of the essence with respect to this Contract and in the event the Contractor fails to complete any work within the established timeframe, the Owner will incur actual monetary damage. The amount of **\$500.00** per day is set forth as the liquidated damages for each day that the time consumed in completing the work exceeds the time allowed. This amount shall in no event be considered as a penalty or otherwise than as the liquidated and adjusted damages to the Owner because of the delay.

14. UNTIMELY PERFORMANCE BY CONTRACTOR:

The Owner and the Contractor hereby acknowledge and agree that time is of the essence with respect to the performance of the Work. In the event the Contractor fails to complete the Work within the established timeframe, the Owner as well as Community Users will incur actual and direct harm. This includes, but is not limited to, the disruption or loss of scheduled classes, disruption or loss of school activities, loss of revenue from these cancelled

GENERAL CONDITIONS

activities, disruption or loss of intermural academic and athletic tournaments, loss of revenue from these cancelled events, disruption or loss of scheduled community use of the schools and facilities.

In addition to the Owner's assessment of liquidated damages, unapproved project delays also can result in the Contractor's loss of eligibility for award of future FCPS Office of Facilities Management projects for a period of three years or more as determined by FCPS Office of Facilities Management.

15. PROGRESS SCHEDULE:

Prior to the first request for payment, submit Progress Schedule in such form as to readily indicate status of work as planned, scheduled, and so arranged so that at weekly intervals it may be clearly determined whether actual state of work is in accord with schedule to Owner as indicate actual progress thereon weekly. Contractor shall update schedule to show substantial completion of project and final completion as necessary when delays or change orders are agreed upon and issued.

16. SCHEDULE OF COMPLETION:

- A. All work shall be substantially completed and certified according to the following schedule:
 - 1. Onsite work shall begin on July 1, 2024.
 - 2. Substantial Completion on or before July 19, 2024. *(See Definition)*
 - 3. Final Completion on or before July 26, 2024. *(See Definition)*
- B. Phasing of the project within the completion date will be jointly prepared by the Contractor, Office of Facilities Management, and school personnel to afford the least amount of disruption to school operations.
- C. Construction and alteration will be performed while the building is in use and therefore, the Contractor shall give full cooperation to the school authorities in scheduling and performing the work. Contractor shall give forty-eight hours advance written notice to school authorities when work is to be performed.

17. CONSTRUCTION SCHEDULES:

- A. The Contractor, promptly after receipt of the Award Letter, shall prepare and submit to the Owner, for approval, a construction schedule for the Work. The Construction Schedule, as approved, shall not exceed the time limits provided in the Contract Documents, shall be revised at appropriate

GENERAL CONDITIONS

intervals as required by conditions of the Work and the Project, shall be related to the entire Project to the extent required by the Contract Documents and shall provide for the expeditious execution of the Work within the Contract Period.

- B. The Contractor shall prepare and keep current, for the Owner's review and approval, a schedule of submittals which is coordinated with the Construction Schedule and is maintained both on the job site and available for the Owners review.

18. SHOP DRAWINGS:

- A. The Contractor shall submit Shop Drawings and similar submittals required by the Contract Documents with reasonable promptness and in accordance with the Submittal Schedule as to cause no delay in the Work or in the activities of the Owner or of separate contractors.
- B. The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings or similar submittals until the Owner has approved the respective submittal. Such Work shall be performed in accordance with the approved submittals.
- C. Delays in submission of shop drawings do not qualify for extension(s) in completion of the contract.
- D. Contractor is responsible for reviewing shop drawings from subcontractors and suppliers to verify that they meet the project requirements prior to submitting them to the Owner. The Contractor shall mark on the shop drawings the name of the reviewer and the date reviewed
- E. Shop drawings must have an approval block, the FCPS project number, and the specification section reference or plan sheet number.

19. CHANGE ORDERS:

19.1 PRELIMINARY PROCEDURES:

- A. Owner may initiate changes by submitting Proposed Modification to Contractor. Request will include:
 - 1. Detailed description of the Change, Products, and location of the change in the Project.
 - 2. Supplementary or revised Drawings and Specifications.

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3. A specific period of time during which the requested price will be considered valid, which shall be 90 calendar days, unless otherwise stated.
 4. The specific action to be initiated by the Contractor.
 5. The amounts of the unit prices to be:
 - a. Those stated in the Agreement and the Bid Form.
 - b. Those mutually agreed upon between Owner and Contractor.
- B. Contractor may initiate changes by submitting a written notice to Owner containing:
1. Description of the proposed changes.
 2. Statement of the reason for making the changes.
 3. Statement of the effect on the Contract Sum and the Contract Time.
 4. Statement of the effect on the work.
 5. Documentation supporting any changes in Contract Sum or Contract Time, as appropriate.
- C. All claims by the Contractor arising out of or relating to the performance of the work or any termination hereunder shall be made in writing and shall be decided by the Director of the Office of Facilities Management or his designated representative. All claims must be filed with the Office of Facilities Management within five (5) calendar days after sustaining the injury underlying the claim. Failure to comply with this provision shall constitute an absolute waiver of such claim. The Director or the Office of Facilities Management or his designated representative shall issue his written decision within thirty (30) days of his receipt of the written claim which decision shall be final.

19.2 DOCUMENTATION OF BIDS AND CLAIMS:

- A. Support each quotation for a lump-sum bid, and for each unit price, which has not previously been established, with sufficient substantiating data to allow Owner to evaluate the quotation.

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1. Bid costs attributable to labor shall be based upon labor rates for each category of personnel. A list of labor rates shall be submitted to the Owner for review and concurrence within 30 calendar days of the Notice to Proceed. See paragraph B2 below for allowable inclusions for establishment of labor rates.
- B. Provide data for lump sum bids in accordance with the following criteria:
1. The Contractor's bid shall be itemized and segregated by labor, equipment, and materials for the various components of the Change in the Work (no aggregate labor total will be acceptable) and shall be accompanied by signed bids of any Subcontractors who shall perform any portion of the Change in the Work and of any entities who shall furnish materials or equipment for incorporation therein.
 2. The portion of the bid relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, shall include anticipated gross wages of Job Site labor, including foremen, who shall be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime labor, if overtime is authorized, Social Security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor).
 3. The portion of the bid relating to materials may include the reasonable anticipated direct costs to the Contractor or to any of its Subcontractors of materials shall be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes.
 4. The bid may further include the Contractor's and any of his Subcontractor's reasonable anticipated equipment rental costs, except small hand tools, in connection with the Change in the Work. For rented equipment an hourly rental rate shall be used which shall be determined by using the monthly rental rates taken from the current edition of the Rental Rate Blue Book for construction Equipment and dividing it by 176. An allowance shall be made for operating costs for each and every hour the equipment is actually operating in accordance with the rates listed in the aforesaid Rental Book. The Contractor shall be allowed no more than 65% of the rental rate on Contractor owned equipment.

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5. Base Cost is defined as the total of labor, material, and equipment rentals as described in Subparagraphs 17.2.B3 and 17.2.B4. The actual net cost in money to the Owner for the Change in the Work shall be computed as follows:
 - a. Contractor overhead and profit: If the Contractor performs the Change in the Work, his compensation shall be the Base Costs as described above, plus a mark-up of 20% on Base Costs less than or equal to \$10,000. If the Base Costs exceed \$10,000, his compensation shall be the Base Cost, plus a mark-up of 20% on Base Costs less than or equal to \$10,000, and a mark-up of 15% on Base Costs above \$10,000.
 - b. Subcontractor overhead and profit: If the work is performed by a Subcontractor, his compensation shall be the Base Costs as described above plus a mark-up as described in Paragraph 5.a. above for overhead and profit. The Contractor's compensation shall be a mark-up of ten percent (10%) of the Subcontractors Base Costs.
 - c. Sub-subcontractor overhead and profit: If the work is performed by a Sub-subcontractor, his compensation shall be the Base Costs as herein described plus a mark-up as described in paragraph 5.a. above for overhead and profit. The Subcontractors compensation shall be a mark-up of ten percent (10%) of the Sub-subcontractor's Base Costs for his overhead. The Contractor's compensation will be a mark-up of ten percent (10%) of the Sub-subcontractor Base Costs.
6. The mark-up on the cost of labor, materials, and equipment described in above Paragraphs 5.a., 5.b., and 5.c. above shall compensate the Contractor, Subcontractor or Sub-subcontractor for all indirect costs associated with or relating to the Change in the Work including, but not limited to, labor and/or equipment inefficiency, changes in sequence, delays, interference, impact on unchanged work, gross receipts tax, superintendent, small tools, reproduction, administration, insurance, unrelated safety requirements, temporary structures and offices, all other general and administrative, home office, and field office expenses.
 - a. The mark-up on the cost of labor, materials, and equipment described in above Paragraphs 5.b. and 5.c. above shall compensate the contractor or Subcontractor for all indirect

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costs associated with or relating to the change in the Work including but not limited to, gross receipt tax, superintendent, reproduction, administration, and insurance.

- C. Support each claim for additional costs, and for work done on a time-and-material basis, with documentation as required for a lump-sum bid, plus additional information:
 - 1. Name of the Owner's authorized agent who ordered the work, and date of the order. Include copies of written authorization when applicable.
 - 2. Dates and times that work was performed, and by whom, verified and signed by Owner's Authorized Representative.
 - 3. Time record, summary of hours worked, and hourly rates paid.
 - 4. Receipts and invoices for:
 - a. Equipment used, listing dates and times of use.
 - b. Products used, including listing of quantities.
 - c. Subcontracts.

- C. Document requests for substitutions of Products as specified in Instructions to Bidders Section 16.

19.3 PREPARATION OF CHANGE ORDERS:

- A. Owner will prepare each Change Order. Two copies shall be prepared, each with original signature.
- B. Form: Change Order - AIA Document G701.
- C. Change Order will describe changes in the work, both additions, deletions and any voided proposed modifications.
- D. Change Order will provide an accounting of the adjustment in the Contract Sum and in the Contract Time.
- E. Upon completion of work under a Change Order, enters the pertinent changes in Record Documents.

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19.4 CHANGE ORDER CONTENTS:

- A. Contents of Change Orders will be based on, either:
 - 1. Owner's proposed Modification and Contractor's responsive Bid as mutually agreed between Owner and Contractor.
 - 2. Contractor's Bid for a change as mutually agreed between Owner and Contractor.
- B. Owner will sign and date the Change Order as authorization for the Contractor to proceed with the changes.
- C. Contractor will sign and date the Change Order to indicate agreement with the terms therein.

20. CHANGES IN WORK:

20.1 MINOR CHANGES:

- A. **Owner's Right to Make Changes.** The Owner reserves the right to make such additions, deletions, or changes to the Work as may be necessary in its sole and absolute discretion to complete the Work; provided, however, that no such additions, deletions or changes shall materially affect the substance hereof or materially change the Contract Sum. This Contract shall in no way be invalidated by any such additions, deletions or changes. No claim shall be made by the Contractor for loss of anticipated profits resulting from any such addition, deletion, or change to the Work.
- B. **Construction Conditions.** Construction conditions may require minor changes in the location and installation of the Work and equipment to be furnished and other Work to be performed hereunder. The Contractor, when ordered by the Architect, shall make such adjustments and changes in the locations and Work as may be necessary without additional cost to the Owner, provided such adjustments and changes do not materially alter the character and quantity of the Work as a whole, or the Contract Sum, and provided further that Drawings and Specifications showing such adjustments and changes are given to the Contractor by the Owner or Architect within a reasonable time before work involving such adjustment and changes is begun. The Owner and the Architect shall be the sole judges of what constitutes a minor change for which no additional compensation shall be allowed.

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- C. Time Extension for Minor Changes. The Contractor shall be entitled to an extension of time for such minor changes only for the number of days which the Architect may determine to be necessary to complete such changes and only to the extent that such changes actually delay the completion of the Project, and then only if the Contractor shall have strictly complied with all the requirements of the Contract Documents.

20.2 EXTRA WORK:

- A. The Owner may, in its sole discretion, at any time by a Proposed Modification or Change Order and without notice to the Sureties require the performance of such Extra Work as it deems necessary or desirable.
- B. A Work Order or a Change Order covering Extra Work shall be valid only if issued in writing and signed by the Owner and the Contractor, and the Extra Work so ordered must be performed by the Contractor and reflects the amount of compensation to be paid to the Contractor
- C. The amount of compensation to be paid to the Contractor for any Extra Work so ordered shall be determined as follows:
 - 1. By such applicable unit prices as set forth in the Contract; or
 - 2. If no such unit prices are set forth, then by a lump sum or other prices mutually agreed upon by the Owner and the Contractor.

21. CORRECTION OF WORK:

- A. The Contractor shall promptly correct any work, which fails to conform to the requirements of the Contract Documents (the "Rejected Work"), whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs associated with the correction of any Rejected Work.
- B. The Contractor's obligation to correct defective or non-complying work shall continue for a period of two (2) years after the date of Substantial Completion. The time period of this obligation may be extended by terms of warranties or other circumstances where required by law.

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22. RIGHT TO SUPPLEMENT CONTRACTOR'S WORK FORCE:

In the event that the Contractor fails (in the opinion of the Owner) within 3 days following Notice from the Owner: (a) to correct defective Work; or (b) to supply labor, materials, or equipment that is necessary to complete the Work in strict accordance with the requirements of the Contract Documents, then the Owner shall have the right to (i) order the Contractor to stop the Work or a designated portion thereof; and/or (ii) supplement the Contractor's forces, in each case to the extent deemed necessary and advisable by the Owner and until such time as, in the opinion of the Owner, the cause of the order or action shall have been corrected. The Owner shall have the right to: (a) correct the deficiencies set forth in the Notice, either with its own forces or with a separate contractor engaged by the Owner to perform such corrections; (b) deduct the cost of correcting such deficiencies (including costs for additional services in connection therewith) from amounts then or thereafter due the Contractor under the Contract Documents; and (c) order the Contractor to re-start at a designated time all or any portion of the Work stopped by the Owner. If the amounts then or thereafter due the Contractor are insufficient to cover the cost of correcting the deficiencies, then the difference shall be payable by the Contractor to the Owner upon written demand. The Architect's determination of cost hereunder shall be final and binding upon the parties. The Owner's exercise of the right to correct deficiencies shall be in addition to, and shall in no way prejudice or limit, any other remedies available to the Owner. In the event that it is determined for any reason that grounds for stopping all or any portion of the Work did not exist, then, at the election of the Owner, the rights and obligations of the parties hereunder shall be the same as if the Notice directing the Contractor to stop the Work had been delivered under the provisions of Paragraph 23 hereof; provided, however, that the Contractor in such event shall be deemed to have received seven days prior written Notice of termination. Any compensation determined to be due the Contractor pursuant to Paragraph 23 shall be offset by the cost of correcting the Work. The Contractor shall in no event be entitled to receive anticipated profits or consequential damages of any kind in connection with any termination or action hereunder.

23. DISPUTED WORK:

If the Contractor is of the opinion that any work required by the Owner violates the terms and provisions of this Contract, then it shall, within four (4) days of commencing such work or action, notify the Owner of the asserted violation in writing. The Owner's Division Superintendent or Designee will make a determination within ten (10) days of the written request. Failure of the Contractor to so notify the Owner shall constitute a waiver and release of the Contractor's right to claim compensation for any work or damages resulting from such compliance.

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24. CONTRACTOR CLAIMS:

- A. The Contractor must, within five (5) days after the occurrence of the event giving rise to a claim, deliver to the Owner's Division Superintendent or Designee a written statement specifying that the Contractor has sustained such damage, and detailing the basis of the claim against the Owner with a breakdown of the nature and amounts of such damages, duly verified by the Contractor and notarized. This itemized breakdown shall be made to the fullest extent possible, otherwise the claim shall be deemed to be waived.
- B. The Owner's Division Superintendent or Designee shall make a determination within twenty-five (25) days after receipt of the itemized breakdown, which decision shall be the final determination of the Owner.
- C. No claim by the Contractor shall be made for loss of anticipated profits due to delay or extension of contract completion time. The Contractor shall be entitled to an extension of time for such minor changes only for the number of days which the Owner determines to be necessary to complete such changes and only to the extent the changes actually delay the completion of the project, and then only if the Contractor shall have strictly complied with all the requirements of the Contract Documents.

25. OWNER'S RIGHT TO TERMINATE FOR CONVENIENCE

The Owner shall have the right to terminate this Contract at its own convenience for any reason by giving seven (7) days prior written notice of termination to the Contractor. The Contractor shall be paid an amount equal to the lesser of: (1) the actual cost of any work, labor or materials actually performed or in place and the actual cost of any labor, equipment or materials ordered in good faith which could not be canceled, less the salvage value thereof, plus ten percent (10%) or (2) the pro rata percentage of completion based upon the Bid Breakdown plus the actual cost of any labor, equipment or materials ordered in good faith which could not be canceled, less the salvage value thereof.

26. CONTRACTOR'S DEFAULT AND TERMINATION:

- A. The parties agree that:
 - 1. if the Contractor is not prosecuting the Work with reasonable speed and diligence or is delaying the progress of the Work unreasonably or unnecessarily; or
 - 2. If the Contractor fails to begin the Work when required to do so; or

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3. if the force of workers or the quality or quantity of material furnished is not sufficient to insure completion of the Work within the specified time in the Contract Documents; or
4. if the Contractor fails in any manner of substance to observe the provisions of this Contract; or
5. if any of the Work, machinery, or equipment is defective and is not replaced; or
6. if the Contractor fails to make prompt payments to suppliers or to Subcontractors for Work performed in connection with the Contract; or
7. if the Contractor fails to cooperate in good faith with the Owner;

than the Owner, without prejudice to any other rights or remedies it may have hereunder, shall have the right to declare the Contractor in default, in whole or in part.

- B. In the event the Owner elects to declare the Contractor in default, the Owner shall notify the Contractor and his Sureties by written notice describing the nature of the default and providing the Contractor a right to cure such default within three (3) calendar days after the date of the notice, or within such longer period as the Owner, in its sole and absolute discretion, may prescribe. In the event the default is not cured within the time period specified by the Owner, the Owner shall have the right to take any actions necessary to contract or complete the Work.
- C. Any costs incurred in connection with completing or correcting the Work shall be deducted from the amounts then or thereafter due the Contractor. In the event such amounts are not sufficient to cover the costs incurred in connection with completing or correcting the Work, the Contractor and his Surety shall pay to the Owner the amount of any deficiency.
- D. If, after issuance of a Notice of termination of the Contract under the provisions of this Paragraph, it is determined for any reason that the Contractor was not in default under the provisions of Paragraph 24(A)(1) through 24(A)(7), or that cause for such termination otherwise did not exist under the provisions of Paragraph 24(A)(1) through 24(A)(7), then the rights and obligations of the parties shall be the same as if the Notice of termination had been delivered under the provisions of Paragraph 23 hereof; provided, however, that the Contractor in such event shall be deemed to have received seven (7) days prior written Notice of termination. Any compensation thereupon owing to the Contractor under

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Paragraph 23 shall be offset by the cost of remedying any defective Work performed by or on behalf the Contractor. In no event shall the Contractor be entitled to recover anticipated profits or consequential damages of any kind in connection with any termination of these Contract Documents.

27. SUBSTANTIAL COMPLETION:

- A. When the Contractor considers that the Work is substantially complete, the Contractor shall provide the Owner written notification of such fact. The Owner shall prepare a comprehensive punch list of items to be completed and/or corrected. The Contractor shall proceed promptly to complete and correct the items on the punch list. Failure to include an item on the punch list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- B. It is the Contractor's responsibility to examine the work of all trades, to correct any deficiencies found, and to verify that all equipment is operating prior to notifying the Owner of Substantial Completion.
- C. "Substantially complete" means that all work described in the specifications or shown on the drawings is done, with only minor items needed to fully complete the work. Typical work that should be done in order to be considered substantially complete include: all equipment installed, piped, electrically connected, and tested with any problems corrected; control systems completed, calibrated and functioning as intended, insulation installed. Equipment should be fully functional and ready for use.

28. FINAL INSPECTION:

Upon written notification by the Contractor that the Work is finally complete, and upon the Contractor's submission of a final application for payment, the Owner will conduct a final inspection of the Work. When the Owner determines that the Work has been satisfactorily completed and the Contract Documents fully performed, including the submission of Operation and Maintenance Data as required in Section 34, he shall promptly prepare and issue a Final Certificate for Payment.

29. PAYMENTS AND COMPLETION:

For the Contractor's complete performance of the Work, the Owner agrees to pay, and the Contractor agrees to accept, subject to the terms and conditions hereof, the Contract Sum, taking into consideration any deductions based on award of a combination of alternates, if applicable, plus the amount required to be paid for Extra Work less credit for any Work omitted.

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30. SCHEDULE OF VALUES:

- A. At the start of the Contract the Contractor shall provide a schedule of values for the work for the Owner's approval. The form shall be completed in detail including quantities and unit costs.
- B. Submit three (3) copies to the project engineer for approval within 5 days of receipt of the Notice to Proceed.
- C. The schedule of values shall be completed in detail including quantities and unit costs. Identify Schedule with:
 - 1. Complete title of Project and Location
 - 2. Contract number
 - 3. Name and address of Contractor
 - 4. Date of Submission
 - 5. Labor per item to install (lump sum labor will not be acceptable)
 - 6. Total Contract Sum
- D. Organize the Content of Schedule into columns with headings as follows:
 - 1. Item Number (Column No. 1)
 - 2. Description of Item (Column No. 2)
 - 3. Quantity (Column No. 3)
 - 4. Unit of Measure (Column No. 4)
 - 5. Cost per unit (Column No. 5)
 - 6. Total cost of Item (Column No. 6)
- E. Each item shall include a directly proportional amount of the Contractors overhead and profit.

31. REQUESTS FOR PAYMENTS AND PARTIAL PAYMENTS:

- A. On or about the first of each month, the Contractor shall make and certify an estimate of the amount and fair value of the Work performed based on the schedule of values and may apply for partial payment. Invoice must have the FCPS contract number clearly indicated on it. The Contractor shall submit the request for payment on AIA Document G702 or equal detailing the schedule of values, work completed, retainage, etc.

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B. The Owner will retain five percent (5%) of the amount of each estimate until final completion and acceptance of all work covered by this Contract, and (10%) of all equipment delivered and properly stored on the site.

C. Send all invoices to:

Fairfax County Public Schools
Department of Facilities and Transportation Services
Office of Facilities Management
Sideburn Support Center
5025 Sideburn Road
Fairfax, VA 22032-2637
Attention: Project Manager

32. CONTRACTUAL DISPUTES:

A. Any dispute arising hereunder or in connection herewith which is not otherwise resolved by the parties shall be decided by the Owner's Division Superintendent or Designee who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days. The decision of the Owner's Division Superintendent or Designee shall be final and conclusive unless the Contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A Contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.

B. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

33. LEGAL ACTION:

No bidder, offeror, potential bidder or offeror, or Contractor shall institute any legal action until all statutory requirements have been met.

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34. OPERATION AND MAINTENANCE DATA:

The Contractor shall compile data and related information appropriate for the Owner's record, maintenance and operation of products, equipment, materials and systems furnished under the Contract. This shall include as-built drawings.

- A. Provide two (2) complete copies of the Record and Information Booklet and one (1) copy of Record and Information in a CD format and delivered to the Owner. Booklet shall be a commercial quality three-ring binder with durable and cleanable plastic cover.
- B. The Contractor must include the Final Approved Equipment Submittal in the Booklet. The Contractor must provide a Warranty Letter indicating the warranty expiration date and a balancing report (if project is Mechanical/HVAC related) must be included in the Booklet.
- C. Neatly typewritten table of contents for each volume, arranged in a systematic order by specification divisions. Indicate contractor, name of project, contract number and address of project on the face of the binder. On the end of the binder the school name shall be printed with a permanent readable label.
- D. As-built drawings shall be red lined to show location and routing of any items not installed as shown on the original drawings.

35. BUILDING PERMITS:

Necessary building permits will be obtained by the Owner. Trade permits shall be obtained by the Contractor for all work prior to start of the project.

36. RIGHT OF AUDIT:

The Owner and its authorized representatives shall, until the expiration of three years from the date of final payment under these Contract Documents, have the right to examine and copy those books, records, accounts, documents, papers and other supporting data which involve transactions related to this Contract or which otherwise permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein (the "Records"), and the Contractor hereby covenants to maintain the Records in good order for such time and to deliver promptly the Records to the Owner within 5 days after its written request. In the event that the Contractor fails to comply with this Paragraph, then the Owner, in addition to any other available remedies, shall have the right to withhold payment of amounts otherwise due the Contractor until such time as the Contractor shall have complied fully with the obligations set forth herein.

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37. NOTICES:

All notices required or permitted hereunder shall be in writing and delivered in the manner prescribed herein. Written notice shall be deemed to have been duly served on the Contractor if delivered by U.S. Mail, hand delivery, or facsimile transmission to the Contractor's office at any Project or to the business address or fax number of the Contractor as stated in its Bid Form; or if delivered in person to the Contractor, to the Contractor's foreman or superintendent for the Project, or any officer or director of the Contractor. Unless otherwise specified herein, Notice shall be deemed to have been duly served on the Owner if delivered by U.S. Mail, hand delivery, or facsimile transmission (with a duplicate copy transmitted by another means of delivery authorized hereunder) to the Office of Facilities Management, Fairfax County Public Schools, 5025 Sideburn Road, Fairfax, Virginia 22032, fax number (703) 239-0462.

38. ORDER OF PRECEDENCE:

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work, including without limitation, all labor, materials, equipment and furnishings required in connection therewith. The Contract Documents are complimentary, and what is required by one shall be as binding as if required by all. In the event of any conflict, error or ambiguity in or among the various Contract Documents, such documents shall be accorded the following order of precedence:

- A. Change Orders;
- B. Notice to Proceed;
- C. Notice of Award;
- D. Supplementary Terms and Conditions;
- E. General Conditions;
- F. Agreement;
- G. Addenda;
- H. Drawings and Specifications;
- I. Payment and Performance Bonds; and
- J. The Bidding Documents, which shall include the Contractor's completed Bid Form and the Instructions to Bidders.

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END OF SECTION

**SUPPLEMENTAL TERMS AND CONDITIONS
FOR PROJECT FUNDED WITH FEDERAL GRANT**

1. Uniform Administrative Requirements

The Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 *et seq.*

2. Domestic Preferences for Procurements-- 2 CFR § 200.322

The Owner and the Contractor agree that, pursuant to Section 2CFR § 200.322, the following regulation applies:

(a) As appropriate and to the extent consistent with law, the Owner should, to the greatest extent practicable in the award and performance of this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section: (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. Civil Rights Requirements – 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332

a. **Nondiscrimination** – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations.

SUPPLEMENTAL TERMS AND CONDITIONS

- b. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply:
1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal Statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.
 2. **Age** – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and other applicable law, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.
 3. **Disabilities** – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.

SUPPLEMENTAL TERMS AND CONDITIONS

- c. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal Assistance, modified only if necessary to identify the affected parties.

4. **Energy Conservation - 42 U.S.C. 6321 et seq.**

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

5. **Davis-Bacon Act**

a.(1) **Minimum wages.**

- i. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is available here and incorporated by reference herein: <https://sam.gov/wage-determination/VA20210178/5>. The referenced wage determination is made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(iv). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time

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spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- ii. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - a. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - b. The classification is utilized in the area by the construction industry; and
 - c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- iii. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- iv. In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30- day period that additional time is necessary.

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- v. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
 - a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - b. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- b. **Withholding.** The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Owner may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- c. **Payrolls and basic records.**
 - i. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the Work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project).

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Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- ii. The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with

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prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- a. That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- b. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- c. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (c)(ii)(b) of this section.

The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

- iii. The Contractor or subcontractor shall make the records required under paragraph (c)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to

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cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

d. **Apprentices and trainees—**

- i. **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws

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approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- ii. **Trainees.** Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- iii. **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- e. **Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

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- f. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a) (1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- g. **Contract Termination: debarment.** A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- h. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- i. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- j. **Certification of eligibility.**
- i. By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - iii. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
6. **Contract Work Hours and Safety Standards Act.** The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (6)(i), (ii), (iii), and (iv) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As

SUPPLEMENTAL TERMS AND CONDITIONS

used in this paragraph, the terms laborers and mechanics include watchmen and guards.

- i. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- ii. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (i) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (i) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (i) of this section.
- iii. **Withholding for unpaid wages and liquidated damages.** The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (ii) of this section.
- iv. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (i) through (iv) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier

SUPPLEMENTAL TERMS AND CONDITIONS

subcontractor with the clauses set forth in paragraphs (i) through (iv) of this section.

In addition to the clauses contained in section (6)(i) through (iv), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the **Agency Head** shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the **Agency Head** shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

7. Recycled Products – 42 U.S.C. 6962

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Owner or the Contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using federal funds.

The Contractor agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

8. Clean Water Requirements – 33 U.S.C. 1251 *et seq.*

- i. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. The Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to appropriate federal agencies including the appropriate EPA Regional Office.

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- ii. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

9. Clean Air Act Requirements – 42 U.S.C. 7401 *et seq.*

- a. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the funding federal agency, if any, and the appropriate EPA regional office.
- b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

10. Program Fraud and False or Fraudulent Statements and Related Acts – 31 U.S.C. 3801 *et seq.*

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et. seq.* and all appropriate federal agency regulations apply to its actions pertaining to this Project. The Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor or to the extent the Federal Government deems appropriate.
- b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- c. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is

SUPPLEMENTAL TERMS AND CONDITIONS

further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

11. Interest of Members of Congress

No member of or delegates to the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising there from.

12. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

The Contractor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and further certifies as follows:

1. No Federal appropriated funds have been paid or will be paid for on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Contract or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

SUPPLEMENTAL TERMS AND CONDITIONS

13. Compliance with Federal Law, Regulations, and Executive Orders

The parties acknowledge that that CSLFRF funds will be used to fund this Contract, and not for any other purpose. The parties will comply with all Laws and Regulations applicable to this Contract and the performance of the Work hereunder, including but not limited to all laws, regulations, orders and directives relating to use of CSLFRF funds.

14. American Rescue Plan Act – 31 CFR § 35 Subpart A

The Contractor acknowledges that the provisions of the American Rescue Plan Act, 42 U.S.C. § 801 et seq. and all applicable regulations apply to its actions related to this project. The Contractor agrees to comply with all related statutes, regulations, executive orders and other guidance related to provisions of the American Rescue Plan Act.

This compliance includes but is not limited to the enumerated eligible uses of the funds related to this Grant as designated in Subpart A of 31 Part 35.

15. Incorporation of Additional Requirements

The Contractor acknowledges that the federal funds were appropriated by the Virginia General Assembly to support qualifying ventilation replacement and improvement projects in public school facilities as described in HB 7001 of the 2021 Special Session of the General Assembly.

The Contractor agrees to comply, where applicable, with section 14 of these Terms; provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 76, 77, 81, 82, 84, 97, 98, and 99; section 442 of the General Education Provisions Act; 34 CFR Parts 100, 104, 106, and 110; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the U.S. Department of Education in 2 CFR part 3485 2 CFR Part 180, as amended; and the Uniform Guidance in 2 CFR Part 200 et seq.

16. No Obligation by Federal Government

The parties acknowledge that the United States federal government is not a party to this Contract and is not subject to any obligations or liabilities to the Owner, Contractor, or any other party pertaining to any matter resulting from the Contract.

SUPPLEMENTAL TERMS AND CONDITIONS

17. ASHRAE Specifications

The Work must comply with the following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE):

- (1) ASHRAE-90 A-1980 (Sections 1-9).
- (2) ASHRAE-90 B-1975 (Sections 10-11).
- (3) ASHRAE-90 C-1977 (Section 12).

18. Preference For Domestic Goods

Pursuant to Section 2CFR § 200.322, the following regulation applies to this Contract:

- a. As appropriate and to the extent consistent with law, the Owner should, to the greatest extent practicable in the award and performance of this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- b. For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

GENERAL REQUIREMENTS

GENERAL REQUIREMENTS (For Project Funded by Federal Grant)

1. CONFLICT OF PROVISIONS:

Any provision of the Conditions of the Contract or of any other document incorporated herein by reference, which is in conflict or inconsistent with "Instructions to Bidders," except such provisions as are required by applicable codes, laws or regulations, shall be void to the extent of such conflict or inconsistency.

2. SITE CONDITIONS:

The Contractor is expected to have become familiar with, and taken into consideration, site conditions which may affect the work and to have checked all dimensions at the site.

A. No plea of ignorance of conditions that exist or may hereafter exist on the work site, or difficulties that may be encountered in execution of the work as a result of failure to make necessary investigations and examinations, will be accepted as an excuse for any failure or omission on the part of the Contractor to fulfill in every detail all the requirements of the Contract documents and to complete the work for the consideration set forth therein, or as a basis for any claim whatsoever.

3. GENERAL:

Minor details not usually shown or specified but necessary for the proper installation and operation shall be included in the work and in the Contractor's bid, the same as if herein specified or shown.

A. With submission of bid, the Contractor shall give written notice to the Owner of any materials or apparatus believed inadequate or unsuitable, in violation of Federal, State and Local Laws, Codes, Ordinances, and any necessary items of the work omitted. In the absence of such written notice, it is mutually agreed the Contractor has included the cost of all required items in his bid and that he will be responsible for the approved satisfactory functioning of the entire system without extra compensation.

B. All Contractors and subcontractors shall have current Virginia and Fairfax County licenses to do this kind of work.

C. A copy of these plans and specifications shall be kept at the job site for the duration of the project. If the Contractor requires additional copies of the plans and specifications it will be the Contractor's responsibility to

GENERAL REQUIREMENTS

request up to two (2) additional copies from the Owner at no cost to the Contractor. If additional copies are requested these will be supplied to the Contractor at a cost of \$50 per set by the Owner. Owner will NOT perform any inspections, punch lists, or progress payments unless a copy of plans and specifications are on the job site.

- D. Successful bidder shall meet the Owner's Representative at the site or at the Owner's Representative's Office for a pre-construction meeting. After receipt of the Notice to Proceed the Contractor will contact the Owner's Representative to arrange the date, time and location of the meeting.
- E. It is the intention of the specifications and drawings to call for finished work, tested and ready for operation. Whenever the word "provide" is used, it shall mean "provide and install complete and ready for use."
- F. Any apparatus, appliance, material or work not indicated in the drawings but mentioned in the specifications, or vice versa or any incidental accessories necessary to make the work complete and perfect in all respects and ready for operation, even if not particularly specified, shall be furnished, delivered and installed by the Contractor without additional expense to the Owner.
- G. Contractor shall install all equipment, materials in accordance with the Manufacturer's instructions, the drawings and these specifications.
- H. Contractor shall include in the work, without additional cost to the Owner, any labor, materials, services, apparatus, drawings (in addition to the Contract Documents), required to comply with all applicable laws, ordinances, rules and regulations, whether or not shown or specified.
- I. For security purposes, all personnel working at this building shall check in and check out at the building's office each day and wear any identification badges required by the building. **Contractor employees/representatives are required to have photo identification and be able to present upon request.** Contractor shall further supply all personnel with a form of identification as to company, name of employee and photographic likeness.
- J. All work shall comply with current County, City, State and/or Federal codes and standards, whichever may apply.
- K. The Contractor shall obtain Owner's approval for any revisions items specified prior to incorporation into the work.

GENERAL REQUIREMENTS

- L. Contractor shall inform all employees that Fairfax County has a NO SMOKING policy on school grounds. Therefore workers shall comply with this policy when students/school personnel are present.
4. SCAFFOLDING, RIGGING AND HOISTING:
- A. Contractor shall furnish all scaffolding, rigging, hoisting, shoring and services necessary for erection and delivery into the premises, for equipment and apparatus furnished and removal of same from premises when no longer required.
 - B. No crane work will be done during regular school hours. The work area around cranes shall be protected with barricades, warning signs, and the Contractor shall provide personnel as necessary to prevent access to the work area by children or adults.
 - C. At no time the units shall be placed on the roof and rolled across the roof. Units shall be lifted directly onto the existing structural support on the roof.
5. ASBESTOS INSULATION:
- A. The Owner will provide upon request copies of asbestos inspections/reports if necessary in the performance of this Contract.
 - B. If the Contractor encounters any suspected asbestos he shall immediately stop work and inform the Owner of the conditions.
 - C. The Owner will be responsible for testing and if necessary removal of any asbestos containing material encountered in the performance of this Contract.
 - D. No materials or equipment containing asbestos shall be utilized in the construction of the project.
6. SITE PROTECTION:
- A. While work is in progress, new materials and work area appurtenances shall be covered or protected from dust, debris or damage.
 - B. The Contractor shall maintain the job site in a clean, safe, orderly working condition and shall leave the premises completely clean each day.
 - C. The Contractor shall be responsible for the repair or replacement of any roof, grass, asphalt pavement, building, or building contents damaged during the course of this Contract. In addition, any fencing removed by

GENERAL REQUIREMENTS

the Contractor shall be re-installed without any damage and to the satisfaction of the Owner.

- D. The Contractor shall provide all necessary manpower, barricades, safety signs and protection needed to safely perform the required work during the Contract.
- E. All openings in building components required for installation of piping or wiring shall be cut, patched and repaired.
- F. All items (lights, pipes, fencing, etc.) that have to be removed during the course of this work shall be reinstalled or relocated as necessary to complete the project.
- G. Contractor shall protect all contents and infrastructure located within the work space and adjacent to the work areas. These shall include but not limited to bleachers, floor plates, lighting, sports padding, walls and ceiling. Gymnasium shall be left clean and free of all dust and debris.
- H. Smoke dust and any construction odors shall not be allowed to enter the occupied building. Contractor shall provide exhaust fans, ducts, seal openings into the school, and if necessary, schedule work during off-hours to prevent problems during the times that students and teachers are in the building.

7. WARRANTY:

Contractor shall warrant the workmanship and materials against defects for a period of two (2) years from the date of final acceptance after all tests and inspections are complete. Manufacturer's warranty individual equipment shall be for two (2) years.

- A. Any portion of the work supplied or performed by the Contractor, which fails within the warranty period shall be repaired or replaced by the Contractor without additional cost to the Owner. Repairs will be initiated within 24 hours of receiving a call from the Owner during the warranty period.
- B. One (1) month prior to the expiration of the warranty, Contractor shall revisit the project with the Owner's representative to determine if any items require correction or if any items previously reported have not been corrected. If necessary, Contractor shall correct noted items even if correction work extends beyond the warranty expiration date.

GENERAL REQUIREMENTS

8. INSTRUCTION OF OWNER'S REPRESENTATIVE:

- A. The Contractor shall furnish, without additional expense to the Owner, full instruction in the care, adjustment, and operation of all parts and controls to the Owner's employees.
- B. The instruction shall be given at a mutually agreed upon time with the Owner during the regular workweek after the equipment has been accepted and turned over to the Owner for regular operation. Where significant changes or modifications in equipment are made under the terms of guarantee, additional information shall be provided as may be necessary to acquaint the operating personnel with the changes or modifications.

9. OWNER'S REPRESENTATIVE:

The Director of the Office of Facilities Management, 5025 Sideburn Road, Fairfax, Virginia 22032, has designated **Zhongyuan (Eddie) Ding** as the point of contact (703) 764-2419. The Director, Office of Facilities Management, may designate such other individual(s) as he deems necessary to assist in the administration of this Contract. These individuals shall have the authority to inspect the Contractor's performance.

10. RELEASE OF BONDS:

The Surety Corporation providing the bonds for this project shall obtain a written release from the Owner prior to the expiration date of the bonds.

11. LOCKOUT AND TAGOUT:

The Contractor shall have an established lockout/tagout procedure, which meets the requirements of VOSH Standard 29 CFR Part 1910, Subpart J, Subsection 147, entitled Control of Hazardous Energy Sources. The Contractor shall coordinate with the Owner's Representative to conform to the Owner's lockout/tagout program requirements.

12. BARRICADES, WARNING SIGNS AND LIGHTS:

Comply with recognized standards and code requirements for the erection of substantial, structurally adequate barricades where needed to prevent accidents and losses. Paint with appropriate colors, graphics and warning signs to inform personnel at the site and the public of the hazard being protected against. Provide lighting where appropriate and needed, including flashing yellow lights where appropriate.

GENERAL REQUIREMENTS

13. CONFINED SPACES:

The Contractor shall have an established confined space procedure that meets the requirements of VOSH Standard 29 CFR 1910, Subpart J, §146, titled "Permit-Required Confined Spaces." The Contractor is responsible to provide confined space air monitoring and rescue equipment, as well as any other required devices or equipment on site to all employees. The Contractor must be able to provide safety training records of its employees performing work in a confined space to the Owner upon request. The Contractor shall coordinate with the Owner's representative to ensure the Contractor conforms to all confined space program requirement.

END OF SECTION

TECHNICAL SPECIFICATIONS

TECHNICAL SPECIFICATIONS (For Project Funded by Federal Grant)

1. SCOPE OF WORK:

It is the intent of this Contract to remove fourteen (14) rooftop units and replace them with fourteen (14) new packaged rooftop units at the specified location. The work shall include all associated demolition rigging, piping, equipment, electrical equipment, controls, insulation, patching, painting and related work as shown on the project drawings and as detailed in these specifications to provide a complete and fully operational installation.

2. REMOVAL OF EXISTING EQUIPMENT:

- A. The Contractor shall remove and dispose of the designated equipment, at given location and selected associated components, piping, electrical equipment, and controls, per locations as shown on the drawing.
- B. The refrigerant in the existing equipment will be removed and disposed of by the Contractor.
- C. The Owner has the right of first refusal to any existing parts.

3. PRODUCT DETAILED SPECIFICATIONS FOR PACKAGED ROOFTOP UNIT:

- A. Unit(s) shall be newly manufactured and be specifically designed for outdoor installation.
- B. Unit(s) shall be rated in accordance with ARI Standards 210/240 or 360. Unit shall be designed in accordance with UL standards.
- C. Unit(s) shall be factory tested and Underwriter's Laboratories or other approved testing laboratory listed as a total package.
- D. Unit(s) shall be a current model for which replacement parts are available.
- E. The desired unit shall be **Trane, or Daikin**. See "SUBSTITUTIONS AND PRODUCT OPTIONS" and "SUBSTITUTIONS" under INSTRUCTIONS TO BIDDERS. Contractor will provide the Owner's Representative with three copies of submittal data prepared by the unit manufacturer for approval. The units shall have the capacities and characteristics as shown

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on the drawings.

F. PACKAGED ROOFTOP UNITS (DX/GAS):

- 1) Unit and Cabinet - The unit exterior panels shall be constructed of phosphotized, zinc-coated steel and painted with baked enamel. All access panels shall be hinged and have permanent weather-tight gaskets to provide a weatherproof seal. Air handling section of unit shall have ½" minimum non-eroding fiberglass insulation throughout, exterior panels shall be hinged.
- 2) Refrigerant System - Each compressor shall have an independent refrigerant circuit. Compressors shall be the scroll type or hermetic reciprocating. Compressors shall have a crankcase heater, be internally spring isolated, and have a fusible plug. Each compressor shall have its own refrigerant circuit with factory installed, service valves, filter drier, low pressure and high-pressure cut-out safety switches, compressor overloads, and TXV expansion device. If a semi-hermetic compressor is used it shall have an oil pressure safety switch factory installed. Refrigerant will be R410a.
- 3) Fans and Motors - The evaporator fan for each unit shall be of the forward-curved centrifugal, Class I type with high efficiency, multi-speed direct drive motors or belt drive. The condenser fan(s) shall be directly driven propeller type. Motors shall be high efficiency, inherent thermal overload protection and permanently lubricated ball bearing type motor(s).
- 4) Coils - The coils shall be copper tubes, mechanically bonded to aluminum plate fins. They shall be of an intertwined design for equal circuit loading and full active coil on part load operation to assure proper treatment of conditioned air. Coils shall be protected from damage with an exterior plastic-coated wire screen or mesh from the factory. Note hail guards are acceptable.
- 5) Gas Heat Exchangers – Provide manufacturers optional stainless steel heat exchangers with a minimum ten (10) year warranty. Provide the following gas controls: Redundant gas valves, Electronic spark ignition system, High limit cutout, and Flame rollover switch.
- 6) Economizer – Provide enthalpy comparison economizer with barometric relief per schedule on the drawing. The assembly shall modulating 0-100 percent motor and dampers, minimum position

TECHNICAL SPECIFICATIONS

setting, preset linkage, wiring harness with plug, spring return actuator and fixed dry bulb control.

- G. ELECTRIC – The main power wires to each unit shall be routed to single-point terminal connections. The unit control voltage shall not exceed 120 VAC. Each compressor, condenser fan motor, blower motor, etc. shall be protected with dual element fuses or a circuit breaker(s) rated HACR for HVAC loads.
- H. CURB ADAPTER(S) – Contractor shall provide and install roof curb adapter(s) for the packaged rooftop unit. Adapter shall mate to existing base curb and shall provide support for the new unit. Adapter shall be supported entirely by the existing curb. Any additional support structure must be pre-approved by the owner. Adapter shall be of box design 14 gauge minimum galvanized steel construction, with continuously welded watertight seams. Adapter shall be internally reinforced and designed by the manufacturer to support imposed equipment loads. The adapter shall not be used as a supply plenum and shall provide space for supply duct transitions. The Contractor shall ant old gasket material and install new gaskets between the adapter and both the base curb and the new unit. Adapter shall be painted by the manufacturer with outdoor enamel paint. Adapter height will not exceed 24". Curb adapters shall be as manufactured by Custom Curb or approved equal. Submittal for curb adapters will be provided for review and approval. For each unit, the Contractor shall provide submittal data to the Owner's Representative for his review and approval. Data will indicate the use of curb adapters and shall show the existing curb dimensions, the unit dimensions, and proposed duct connections.
- I. UNIT CONTROLS:
- 1) Each unit shall have a timing device installed by the manufacturer or field installed by the Contractor to prohibit any compressor from starting more than once every five (5) minutes.
 - 2) All control components will be standard products for which parts are readily available from local suppliers.
 - 3) All low voltage controls shall be isolated from high voltage wiring and controls.
 - 4) All wiring shall be copper type THHN or THWN.

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- 5) All low voltage wiring shall be supplied by a separately fused step-down transformer and shall be 24 VAC.
 - 6) All low voltage control connections shall be at components or on terminal strips.
 - 7) All wires will be color-coded and labeled. All components will be clearly and permanently labeled.
 - 8) The units wiring diagram and legend shall be adhered to the inside of the control panel cover.
 - 9) All field installed components shall include a permanent "as built" wiring diagram and affixed to each new unit.
- J. AIR FILTERS - Unit(s) shall be designed for standard 2" throwaway type air filters with standard filter sizes and a minimum MERV 8 rating. Contractor shall supply and install one complete set of medium efficiency pleated filters in the unit.
- K. OUTSIDE AIR DAMPERS - Unit(s) shall have motorized outside air dampers. Dampers shall be spring returned to 100% closed position when the indoor air fan is off. Note that battery operated dampers are not acceptable.
- L. NOISE LEVEL - Unit(s) shall be manufactured to limit noise emission to prevent annoyance to the building interior and surrounding neighborhood.
- M. CONDENSATE DRAIN - Contractor shall supply and install a PVC condensate drain line for each unit. Minimum pipe size to be 3/4". Drain line is to be installed in accordance with the unit manufacturer's recommendations. One condensate p-trap will be installed in each line unless the unit has an internal trap. The drain line will be supported a minimum of every 2'. Supports will be secured to the surface of the roof by pouring a coat of hot bitumen and setting the support into the bitumen.(See project drawing detail)
- N. CONTROLS – Contractor shall retain the services of a controls sub-contractor as specified in the project drawings to perform all system controls work and any building EMS re-programming required for new system operation will be done by FCPS.
- O. MANUFACTURER'S WARRANTY - Each complete unit shall have a two (2) year warranty on all parts and labor. Each unit shall have a five (5)

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year manufacturer's warranty on the compressors and all parts. Each unit stainless steel heat exchanger shall have a ten (10) year warranty from the manufacturer.

- P. WARRANTY TAG - The Contractor shall attach an engraved weatherproof Guarantee or Warranty tag to the exterior of each new unit. Identification tag shall be black with engraved 1/4" white letters which reads:

UNIT # <u>(unit number)</u>
INSTALLED BY: <u>(contracting company's name)</u>
5 YR PARTS WARRANTY EXPIRES: (month / day / year)
2 YR LABOR WARRRRANTY EXPIRES: (month / day / year)
SERVICE PROVIDER: (Service providers name)
PHONE: (Service providers phone number)

Tag is to be screwed or riveted to each new unit at or near manufacturers rating plate. Double-faced tape is not acceptable.

4. DUCTWORK:

Ductwork and duct accessories shall meet the requirements and recommendations of Sheet Metal and Air Conditioning Contractors Nation Association (SMACNA) "Low Pressure Duct Construction Standards", UL-181 standard, and ASHRAE recommendations.

All new ductwork shall be no thinner than 22 gauge.

The installation of duct and duct accessories shall comply with NFPA standard 90A as well as state and local codes.

All angles used for reinforcement, support, hanging, and other construction uses shall be galvanized steel and shall be equal to that used for ductwork. Galvanized angle iron shall be used where required by SMACNA standards.

Flexible connections shall be provided at the unit connection for both supply and return ducts. Flexible connections shall allow 1" of free movement and shall be

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airtight with sewed and cemented seams. Material shall be neoprene-coated glass.

The Contractor shall modify and replace existing ductwork as necessary to connect the new units to the existing ductwork.

New transitions shall be provided to connect the new single zone unit(s) to the existing ductwork. New transitions shall be designed so that the free cross-sectional area of transitions shall not be less than the free area of existing ductwork.

Supply and Return Air Ducts for side discharge-oriented units shall be insulated with 2 inch R-8 closed cell exterior duct insulation. All exterior duct insulation shall be covered with "Ventureclad" zero permeable insulation covering to provide a weather tight seal.

5. AIRFLOW TESTING, ADJUSTING AND BALANCING:

The Contractor shall provide unit airflow profile on new rooftop units after installation and submit written air balance report as a part of Operation Maintenance manual.

6. NATURAL GAS PIPING:

- A. All work shall conform to the NFPA 54 National Fuel Gas Code, local gas code and local gas supplier's requirements.
- B. The entire piping system shall be tested and approved before being placed in operation.
- C. Gas piping above ground shall be schedule 40 black steel pipe with malleable screwed 125psi fittings. Pipe two and one half inches and larger may be schedule 40 black steel pipe with 150psi weld fittings.
- D. Gas Piping in Plenum Spaces - Shall be welded schedule 40 black steel pipe with 150-psi weld fittings.
- E. Gas valves shall be of the approved type with an AGA label and shall be installed as required.
- F. Gas valves shall not be located in plenum spaces.

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7. PAINTING:

- A. All new or repaired piping shall be color code painted with two coats of enamel paint.
- B. Steel and steel pipes shall be primed with at least one coat of primer 1.5 mils thick. Two coats with a total thickness of 2.5 mils of enamel paint shall then be applied.
- C. Insulation shall be painted with two coats of enamel.
- D. Pipe colors code shall be:

Gas Supply (Interior)	Yellow
Gas Supply (Exterior)	Yellow
- E. All new pipes shall be labeled with function.

8. ENERGY MANAGEMENT SYSTEM:

- A. **All energy management and control work shall be performed by the Controls Sub-contractor only.**
- B. The existing energy management system shall be modified to control the new unit.
- C. To prevent damage to the computer system, at least three days prior to disconnecting and removing the units, the Control Contractor shall coordinate with the Owner's Representative to have the energy management computer shut down.
- D. Before removing the rooftop units, the Control Contractor shall note the function of all existing energy management system controls within the units and tag all control wires with their function. The Control Contractor shall then remove and replace, with like components, the following energy management devices from rooftop unit:
 - 1. Current transducers and current switches.
 - 2. Relays
 - 3. Mixed air sensor
 - 4. Supply and return air sensors

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- E. Energy management control wires shall be removed from the units without cutting them.
 - F. After setting the new units, existing control wires will be routed into the units by the Control Contractor. Control Contractor will extend the control wires if necessary.
 - G. All wiring shall be neatly routed, wire tied, color coded, tagged, and permanently marked on the unit wiring diagram.
 - H. Control wiring shall be multi-conductor stranded copper, minimum size 18 AWG, 300 volt rated. Control wires installed in the air stream within the units or within the building shall have 10 mils TFE Teflon insulation fully color coded, rated 300 volts with Teflon outer jacket. Teflon covering shall comply with the requirements of NFPA 72D for use in a plenum ceiling.
 - I. All necessary re-programming (not in the scope of work) to integrate the control of the new rooftop equipment with the existing building management system shall be include and performed by the Control Contractor. Control Contractor shall coordinate this with FCPS Energy Management Section, Serghei Malcov at (703) 764-4373.
9. ELECTRICAL:
- A. All devices, material, hardware and installation shall be in accordance with the requirements of the local electrical code and the National Electrical Code (NEC).
 - B. The electrical Contractor shall have an established lockout/ tagout procedure, which meets the requirements of VOSH Standard 29 CFR Part 1910, Subpart J, Subsection 147, entitled Control of Hazardous Energy Sources. The Contractor shall coordinate with the Owner's Representative to conform with the Owner's lockout/ tagout program requirements.
 - C. All devices and material shall be as listed by Underwriter's Laboratory and shall bear the UL label.
 - D. New disconnect switches shall be installed where shown on the drawings. The switch handle shall be capable of being locked in the closed position. The disconnect shall be

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selected to hold fuses sized per the HVAC unit manufacturer's recommendation. The disconnect amperage rating shall meet or exceed the rated amperage of the circuit breaker feeding it whether new or existing.

E. Wire and Cable:

All new conductors except low voltage control wiring shall be new copper THWN or THHN, 600 volt rated. Minimum wire size shall be # 12 unless noted or specified otherwise.

Low voltage control wiring shall be multi-conductor stranded copper, minimum size 18 AWG, with 10 mils TFE Teflon insulation fully color coded, rated 300 volts with Teflon outerjacket. Teflon covering shall comply with the requirements of NFPA 72D for use in a plenum ceiling. It shall be clearly marked for this service. Control wiring installed outdoors shall be run in watertight IMC conduit and all splices shall be in electrical boxes.

All wiring shall be color coded to identify phases, neutral and ground. Color code shall be in accordance with NEC and as follows:

<u>VOLTAGE CONDUCTORS</u>	<u>120/208</u>	<u>277/460</u>
Phase A	Black	Brown
Phase B	Red	Orange
Phase C	Blue	Yellow
Neutral	White	Gray
Ground	Green	Green

F. Installation of Conductors:

Conductors shall be continuous between junction boxes and no splices shall be made except in boxes or panelboard gutters.

All joints, splices and taps Number 8 and larger shall be connected with solderless compression type pressure connectors.

Oil or grease shall not be used when pulling conductors. Approved cable lubricants only may be used.

Train conductors neatly in panels, cabinets and equipment.

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Tighten pressure type lugs on panels and equipment and then retighten 24 hours later.

Identification of Conductors: All branch circuits shall be left tagged in the panelboards, in all gutters, and in all junction boxes.

Conductors in vertical conduit runs shall be supported with split-wedge type fittings, which clamp each conductor and automatically tighten under the weight of the conductors at intervals per NEC.

G. Conduit shall be in accordance with the following:

All conduit shall be new full-length intermediate metal conduit (IMC) or rigid. Any flexible connections to motors or other equipment, shall be made using liquid-tight, galvanized single strip flexible metal conduit minimum length 12"/maximum length 36"

Hangers and Brackets - All new conduit shall be supported from the building structure. Horizontal runs of conduit shall be supported a minimum of 8' on center. Hangers shall be adjustable types especially made for electrical conduit. Parallel runs of conduit may be supported on trapeze hangers made of all thread rods with structural steel channel cross members. Channels shall be 1-inch for 24-inch wide trapeze and 1.5 inch for larger than 24 inches. Perforated steel straphangers are not acceptable. Conduit run along wall surfaces shall be supported with galvanized steel brackets especially designed for conduit and sized for the conduit used.

Pull boxes shall be provided in any conduit run which exceeds 75 feet in length or any run having more than three (3) 90-degree elbows.

H. Disconnect Switches:

Heavy duty disconnect switches shall be provided and installed as shown on the drawings. Disconnect switches shall be NEMA Heavy Duty type HD and shall be UL listed. The heavy duty disconnect switches shall be manufactured by SQUARE 'D', GENERAL ELECTRIC or CUTLER-HAMMER.

Switches shall have quick-make and quick-break operating handle and mechanism, which shall be an integral part of the box. Switches shall be horsepower rated for 250 volt or 600 volt as required. The lugs shall be

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UL listed for copper conductors and be front removable. Ampere rating shall be provided as indicated on the drawings.

Enclosures for indoor switches, except boiler and mechanical rooms, shall be NEMA 1 for general purpose or as noted on the drawings. Enclosures for outdoor switches or those located in boiler and mechanical rooms shall be NEMA 3R (weatherproof) or as noted on the drawings.

- I. Installation: The disconnect switches shall be securely mounted in accordance with the National Electrical Code, approximately 60 inches above finished floor to top unless otherwise noted. Provide steel channel mounting brackets where required for secure mounting. Where mounted on rooftop equipment disconnects shall be mounted on galvanized strut and shall not obstruct equipment access or coils.

The fuses as specified shall be installed in disconnect switches requiring fuses.

One complete set of extra fuses shall be turned over to the Owner upon completion for each type and rating of fuses provided new on this project.

J. Electric Motor Starters

The contractor shall furnish all motor starters complete with lugs sized to receive conductors specified and with accessories as required such as stop-start push button switches, hand-off-auto selector switches, pilot lights, remote switches, auxiliary contacts, transformers, relays, fuses and overload thermal units or heaters.

1. The motor starters shall be the type to meet the requirements of the motor and shall be in accordance with NEMA Standards, sizes and horsepower ratings. The starters shall be manufactured by SQUARE 'D', GENERAL ELECTRIC, CUTLER-HAMMER or SIEMENS.
2. Three phase motors shall have across-the-line magnetic starter and single-phase motors shall have manual starters. The starters shall have NEMA 1 enclosures unless otherwise noted or required. Outdoor starters shall have weatherproof enclosures.
3. The starter shall have an overload thermal unit in each phase conductor. The thermal units shall be sized as recommended by

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the manufacturer for full protection of the motor.

K. Phase Protection:

All three phase electric motors shall be individually protected by a UL listed phase protector. The phase protector shall be an ICM-455 or approved equal. The phase protector shall protect the motor from voltage unbalance, high/low voltage, phase loss, phase reversal, phase unbalance, faulty power, and rapid short cycling. The phase protector shall also include fault history, status/trouble lights and adjustable/selectable operation with built in time delays. The phase protector shall have a digital readout. The phase protector shall be programmed as follows:

Line Voltage:	nameplate voltage
Delay on Break:	1 minute
Fault Interrogation:	8 seconds
Over/ Under Voltage:	8%
Phase Unbalance:	5%
Reset Mode:	automatic

L. Nameplate:

Disconnect switches, starters, panel boards, and all other related electrical devices shall have nameplates of 1/16-inch thick laminated plastic with 1/2-inch high white letters on a black background. Nameplates shall identify each piece of equipment and shall be mounted on the front top of the enclosure. Labels shall be securely fastened to equipment. Double-faced tape is not acceptable.

M. Equipment Startup:

The Contractor shall provide a certified equipment startup for each new rooftop unit and supply a written report of all results on tests performed. Tests shall include, but are not limited to, the following tests and adjustments:

1. A certified air balance test shall be performed including adjustments to the specified total unit CFM and adjustments to the specified outside air requirements for each new rooftop unit.

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2. A test shall be performed for the gas supply pressure and burner manifold pressure for each new rooftop unit and adjusted to manufacturer's specifications.
3. Measure the temperature rise (Delta T) across the heat exchanger during seasonal O/A load conditions for each new rooftop unit. Adjust to manufacturers specifications.
4. Connect refrigerant gauges to each refrigerant circuit on new rooftop units. Compare pressures and temperatures to manufacturer's specifications under cooling load conditions. (If under charge is indicated, check new equipment for suspected refrigerant system leaks)
5. Measure the temperature fall (Delta T) across the evaporator coil of each new rooftop unit and adjust to manufacturers specifications.

END OF SECTION