

ONE GOVERNMENT PLAZA
POST OFFICE BOX 1180



ROCKY MOUNT
NORTH CAROLINA 27802-1180

CITY OF ROCKY MOUNT

Dear Sir:

Please acknowledge receipt of this bid. Please indicate your intention and return this acknowledgment to the Purchasing Division by fax to 252-972-1662.

YES: I will bid _____
NO: I will not bid _____

CITY OF ROCKY MOUNT
P O BOX 1180
ROCKY MOUNT, NC 27802
DELTON L. FARMER
PURCHASING MANAGER

**BID NO.: 76054 – THE ADMINISTRATIVE COMPLEX PARKING LOT
AND SENIOR CENTER LIGHTING RETROFIT - ARRA**

COMPANY: _____

STREET ADDRESS: _____

CITY STATE ZIP _____

SIGNATURE _____

TELEPHONE () _____

FAX NO.: _____

INTERNET ADDRESS: _____

ADVERTISEMENT FOR BIDS

CITY OF ROCKY MOUNT, NORTH CAROLINA

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed proposals endorsed "The Administrative Complex Parking Lot and Senior Center Lighting Retrofit" will be received by the City Purchasing Office in the Administrative Complex, One Government Plaza, until 2:00 P.M., August 4, 2011 at which time they will be publicly opened and read in the Purchasing Conference Room on the fourth floor of the Administrative Complex.

A Pre-bid Conference will be held on Thursday, July 28, 2011 at 10:00 A.M. in Conference Room #3, located on the second floor of the Administrative Complex. Bidders or their representatives are urged to attend.

Instructions for submitting bids and complete specifications for the work, equipment, supplies or services desired may be obtained at the office of the City Purchasing Manager in the Municipal Building during regular office hours between 8:30 A.M. and 5:00 P.M., Monday through Friday.

The City of Rocky Mount reserves the right to reject any and all bids.

The City of Rocky Mount will not discriminate against any bidder submitting a bid because of race, creed, color, national origin or handicap.

CITY OF ROCKY MOUNT

Delton L. Farmer

Delton L. Farmer

Purchasing Manager

GENERAL INSTRUCTIONS

Any reference to namebrand models, etc is not intended to restrict the bidding process but to more clearly inform bidders of the quality level of what is expected by the City of Rocky Mount. Any alternate bid must meet or exceed the performance level of what is referenced in the bid specifications.

Bidders are asked to check the appropriate "YES", "NO" or "ALTERNATE" responses. Bidders are to reference the section and provide an explanation of what alternate is proposed, for evaluation purposes.

Bid responses are due by 2:00 P.M., on Thursday, August 4, 2011. Bid responses are to be mailed to: The City of Rocky Mount Purchasing Office, 331 S. Franklin Street, Rocky Mount, N.C. 27804 or hand delivered to the City Administrative Complex, Purchasing Division, located on the 4th floor of the Administrative Complex.

PURSUANT TO (G.S. 143-129) THIS BID MUST BE ACCOMPANIED BY A BID BOND OF NO LESS THAN FIVE (5%) OF THE TOTAL OF THIS PROPOSAL. BID BOND MUST BE EITHER CASH, CASHIER'S CHECK, CERTIFIED CHECK, OR A BID BOND BY A SURETY LICENSED IN NORTH CAROLINA.

NO FAXED BID BONDS WILL BE ACCEPTED.

PRODUCT BROCHURE

Bidders are to provide with their bid price proposal product brochures with pictures of each namebrand, model and other equipment to be provided if your company is awarded the contract.

**CITY OF ROCKY MOUNT
PURCHASING DIVISION**

BID REQUEST NO. 76049

DATE: June 20, 2011

**REQUEST FOR BIDS AND PROPOSALS ON
THE ADMINISTRATIVE COMPLEX AND SENIOR CENTER
LIGHTING RETROFIT**

Pursuant to General Statutes of North Carolina, Section 143-129 as amended, sealed bids and proposals, subject to the conditions and specifications herein, are invited for furnishing the following equipment, materials, service, or repair work. All bids will be received by the City of Rocky Mount's Purchasing Division until 2:00 P.M., on Thursday, the 4th day of August, 2011 at which time they will be publicly opened and read.

TERMS: _____

CITY OF ROCKY MOUNT, NC


BY: Delton L. Farmer

PURCHASING MANAGER



POSITIVELY NO BIDS CONSIDERED UNLESS SUBMITTED ON THIS FORM

NOTICE TO BIDDERS: All tax imposed upon any article that you are bidding shall be shown as separate items and in no case included with price bid. Failure to comply with these conditions will be considered grounds for rejection.



NOTICE TO BIDDERS

1. RECEIPT OF BIDS

Sealed proposals will be received by the City of Rocky Mount (City) until 2:00 pm on Thursday, August 4, 2011 for "City of Rocky Mount Lighting Retrofit", in accordance with the specification governing the proposed work prepared by the City, which with the Contract Documents are hereby made a part of this notice.

The sealed proposal shall be publicly opened, read aloud, and tabulated beginning at 2:00 pm, local prevailing time, on Thursday, August 4, 2011 in the Conference Room #3 located on the second floor at the City of Rocky Mount Administrative Complex at 331 S. Franklin Street, Rocky Mount, NC 27802.

A Pre-Bid Meeting will be held at 10:00 am on Thursday, July 28, 2011, in the Conference Room #3 at the City of Rocky Mount Administrative Complex at 331 S. Franklin Street, Rocky Mount, NC 27802.

The Contractor must not detach the proposal form from the contract documents but must submit and return the entire Contract Document. An extra set of proposal forms can be furnished for the contractor's use upon request.

2. WORK DESCRIPTION

The scope of work shall consist of the providing all materials labor, transportation, insurances and all else necessary for the lighting retrofits at the identified locations per specification requirements.

3. WITHDRAWAL OF BIDS

No bid may be withdrawn after the time of closing. Bids will be returned in accordance with the "Instructions for Bidders".

4. WORK COMMENCEMENT

The work under the proposed Contract shall be commenced within 14 days from the Notice to Proceed, unless otherwise agreed upon by the City and the selected Contractor. Time of completion is to be no later than October 7, 2011 after the of Notice to Proceed is issued.

5. PAYMENTS

Payments to the Contractor shall be made on the basis of monthly invoices presented for the value of the work completed and approved by the City.

6. INSURANCE

Certificate of Insurance shall have the indemnification Agreement copies on the reverse side of the Certificate. In each insurance policy issued, ***the City of Rocky Mount is to be included as additional insured*** as regards to work performed by the insured.

INSTRUCTIONS TO BIDDERS

1. READ, REVIEW AND COMPLY: It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.

2. NOTICE TO BIDDERS: All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the City of Rocky Mount Contract Terms and Conditions.

3. DEFINITIONS:

* **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.

4. ORDER OF PRECEDENCE: In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) City General Contract Terms and Conditions, and (4) Instructions to Bidders.

5. TIME FOR CONSIDERATION: Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 60 days from the date of bid opening.

6. PROMPT PAYMENT DISCOUNTS: Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.

7. SPECIFICATIONS: Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

8. INFORMATION AND DESCRIPTIVE LITERATURE: Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.

9. RECYCLING AND SOURCE REDUCTION: It is the policy of this City to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost effective.

We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.

Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.

10. CLARIFICATIONS/INTERPRETATIONS: Any and all questions regarding this document must be addressed to the contact information for this project. Any and all revisions to this document shall be made only by written addendum from the City. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.

11. ACCEPTANCE AND REJECTION: The City reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error or the other is obviously correct, the incorrect price will be disregarded.

12. REFERENCES/COMPETENCY: The City reserves the right to request detailed financial statements, statements of available personnel and equipment, experience records and lists of the value of uncompleted work on other contracts held by Bidders. These shall be completed within five (5) business days after the date of request.

13. TAXES:

* **FEDERAL:** This contract is exempt from Federal Taxes, such as excise and transportation.

* **STATE:** North Carolina Sales Tax and Use Tax apply to this contract for materials and such costs shall be included in the bid proposal and contract sum.

* **LOCAL:** Local Option Sales and Use Tax apply to this contract for materials and such costs shall be included in the bid proposal and contract sum.

15. AWARD OF CONTRACT: Qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to the City as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the City to be pertinent or peculiar to the purchase in question.

Unless otherwise specified by the City or the bidder, the City reserves the right to accept any item or group of items on a multi-item bid.

16. HISTORICALLY UNDERUTILIZED BUSINESSES: The City invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. The City has adopted a five percent (5%) goal for participation by minority businesses for this project. An affidavit must be filled and returned to the City for file stating that Minority Business Participation was attempted and good faith effort was made by the contractor to meet the City's goal.

17. CONFIDENTIAL INFORMATION: The City will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

18. SAMPLES: Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become City property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

19. BID BONDS: Each set of Proposals for Bidder must be accompanied by a certified check or security company's bid bond in the form set forth in the Contract Documents in an amount not less than five (5) percent of the total bid. Individual sureties will not be acceptable. The bond shall be made payable to or name as obligee the City and shall be issued by a surety licensed to conduct business in the State of North Carolina.

The successful Bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within ten (10) days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid.

20. POWER OF ATTORNEY: Attorneys-in-fact who sign bid bonds or contract documents must file with each bond a certified and effectively dated copy of their power of attorney.

21. OBLIGATION OF BIDDER: At the time of the opening of the bids, each Bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with all contract documents and plans. The failure or omission of any Bidder to examine any form, instrument or document shall in no way relieve any Bidder from any obligation in respect of his bid.

22. MISCELLANEOUS: Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

GENERAL CONDITIONS

1. GENERAL

It is understood and agreed that by submitting a bid that the Contractor has examined these contract documents, drawings and specifications and has visited the site of the Work, and has satisfied himself relative to the Work to be performed.

2. DEFINITIONS

The following terms are used in this contract are respectively defined as follows:

- a. Contractor: A person, firm, or corporation with whom the contract is made by the City.
- b. Subcontractor: A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the Contractor.
- c. Work on (at) the Project: Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor or Subcontractor.

3. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions thus supplies to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the City will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the City in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of work.

4. SHOP OR SETTING DRAWINGS

The Contractor shall submit promptly to the City one reproducible copy of each shop or setting drawings prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the City and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the City with one reproducible corrected copy. Regardless of corrections made in or approval given to such drawings by the City, the Contractor will nevertheless be responsible for the accuracy of such drawings and for the conformity to the plans and specifications, unless he notifies the City in writing of any deviations at the time he furnished such drawings.

5. MATERIALS, EQUIPMENT AND EMPLOYEES

The contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, fuel, sanitary facilities and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied there from, all in accordance with the contract documents.

All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.

No changes shall be made in the Work except upon written approval and change order of the City. Change orders shall be subject to provisions as set forth by the City of Henderson. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When

specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. **However, the contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Substitution of materials, items or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval shall be made by the architect or engineer prior to the opening bids.**

If at any time during the construction and completion of the work covered by these contract documents, the conduct of any workman of the various crafts be adjudged a nuisance to the City or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from grounds.

The contractor shall designate a foreman/superintendent who shall direct the work.

6. CODES, PERMITS, AND INSPECTIONS

The Contractor shall obtain the required permits, give all notice and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the Designer in writing. If the contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the City, he shall bear all cost arising there from.

7. SAFETY REQUIREMENTS

The Contractor shall be responsible for the entire site and the construction of the same and provide all the necessary protections as required by laws or ordinances governing such conditions and as required by the City or Designer. He shall be responsible for any damage to the City's property, or that of others on the job, by himself, his personnel or his subcontractors, and shall make good such damages. He shall be responsible for and pay for any claims against the City arising from such damages.

The contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926 published in Volume 39, Number 122, Part 11, June 24, 1974 Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.

The Contractor shall provide all necessary safety measures for the protection of all persons on the work, including the requirements of the A.G.C. Accident Prevention Manual in Construction as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.

8. TAXES

Federal Excise Taxes do not apply to materials entering into State work (Internal Revenue Code, Section 3442(3)).

Federal Transportation Taxes do not apply to materials entering into State work (Internal Revenue Code, Section 3475 (b) as amended).

North Carolina Sales Taxes and Use Tax do apply to materials entering into state work (N.C. Sales and Use Tax Regulation No. 42, Paragraph A), and such costs shall be included in the bid proposal and contract sum.

Local Option Sales and Use Taxes do apply do apply to materials entering into State work as applicable (Local Option Sales and Use Tax Act, Regulation No. 57), and such cost shall be included in the bid proposal and contract sum.

Accounting Procedures for Refund of County Sales and Use Tax

Amount of county sales and use tax paid per contractor's statements:

- a. Contractors performing contracts for state agencies shall give the state agency for whose project the property was purchased a signed statement containing the information listed in G.S. 105-164.14 (e).
- b. The Department of Revenue has agreed that in lieu of obtaining copies of sales receipts from contractors, an agency may obtain a certified statement as of April 1, 1991, from the contractor setting forth the date, the type of property and the cost of the property purchased from each vendor, the county in which the vendor made the sale and the amount of local sales and use taxes paid thereon. If the property was purchased outof-state, the county in which the property was delivered should be listed. The contractor should also be notified that the certified statement may be subject to audit.
- c. In the event the contractors make several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, the counties, and the county sales and use taxes paid thereon.
- d. Name of taxing county: The position of a sale is the retailer's place of business located within a taxing county where the vendor becomes contractually obligated to make the sale. Therefore, it is important that the county tax be reported for the county of sale rather than the county of use.
- e. When property is purchased from out-of-state vendors and the county tax is charged, the county should be identified where delivery is made when reporting the county tax.
- f. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of county sales or use tax paid thereon by the contractor.
- g. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant.
- h. Contractors are not to include any tax paid on supplies, tools and equipment which they use to perform their contracts and should include only those building materials, supplies, fixtures and equipment which actually become a part of or annexed to the building or structure.

9. EQUAL OPPORTUNITY

The non-discrimination clause contained in Section 202 (Federal) Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor, are incorporated herein.

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

10. INSURANCE

The contractor shall not commence work until he has obtained all insurance required, and such insurance has been approved by the City, nor shall the contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been obtained.

- a. The contractor shall provide and maintain during the life of this contract Workmen's Compensation Insurance for all employees employed at the site of the project under his contract.
- b. The contractor shall provide and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect him and any subcontractor performing work covered by this contract, from claims for damage for personal injury including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operation be by the contractor himself or by any subcontractor, or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:
- c. Public Liability Insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person and subject to the same limit for each person, in amount not less than \$1,000,000 on account of one accident; and Property Damage Insurance in an amount not less than \$1,000,000 for any one occurrence.
- d. The contractor shall furnish such additional insurance as may be required by General Statutes of North Carolina, including motor vehicle insurance in amounts not less than statutory limits.
- e. Each Certificate of Insurance shall bear the provision that the policy cannot be cancelled, reduced in amount or coverage eliminated in less than fifteen (15) days after mailing written notice to the insured and/or the City of such alteration or cancellation, sent by registered mail.
- f. The contractor shall furnish the City with satisfactory proof of carriage of the insurance required before written approval is granted by the City.

11. INVOICES FOR PAYMENT

Payment will be made on a monthly basis or as agreed upon with the contractor at the preconstruction meeting. A 10% retainage will be held until the project has been completed satisfactorily to the City and/or other agency requirements. Once a final acceptance of the project is made, a final payment will be made. Final payment will be made lump sum within thirty (30) consecutive days after acceptance of the work and the submission both of notarized contractor's affidavit and four copies of invoices which are to include the contract, account and job order numbers.

Executed contract documents, insurance certifications and, upon completion and acceptance of the work, invoices and other information requested are to be sent to:

**Mr. Delton Farmer
City of Rocky Mount
331 S. Franklin Street
Rocky Mount, NC 27801
(252) 972-1228**

It is imperative that contract documents, invoices, etc., be sent only to the above address in order to assure proper and timely delivery and handling.

12. MATERIALS, SERVICES AND FACILITIES

- a. It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every natures, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- b. Any work necessary to be performed after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the City.

13. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims and encumbrances.

14. INSPECTION AND TESTING OF MATERIALS

a. All materials and equipment issued in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the City. The City will pay for all laboratory inspections service direct, and not as a part of this Contract unless otherwise noted.

b. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspections and testing to establish conformance with specifications and sustainability for uses intended.

15. "OR EQUAL" CLAUSE

Whenever the words "or equal" (equal to, or similar words) appear in the specifications, they shall be interpreted to mean an item of material or equipment similar to that named and which is suited to the same use and capable of performing the same functions as that named, the City being the judge of equality.

Each Contractor shall obtain written approval from the City for the use of substitute materials claimed as equal to those specified. Such approvals must be obtained as soon after the Contract awards as possible and before any materials are ordered. Applications for approvals shall be made by the Contractor and not by Subcontractors or material men. Each separate Contractor shall submit within ten (10) days following award of contract and written notice to begin the work a complete list of materials proposed for the job. When this list is approved, no further substitutions will be permitted except in unusual or extenuating circumstances. If no list is submitted, it will be assumed that the contract will supply materials specified, and the Contractor shall be held to this requirement.

Items of equipment, manufactured or fabricated, proposed in substitution for those specified, shall be subject to final approval by the City.

a. Patents. The Contractor shall hold and save the City and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the City, unless otherwise specifically stipulated in the Contract.

b. License or Royalty Fees. License and/or Royalty Fees for the use of a process which is authorized by the City must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the City and not by or through the Contractor.

c. If the Contractor used any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device, or material. It is mutually agreed and understood, that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the City from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in a connection

with work agreed to be performed under this contract, and shall indemnify the City for any cost, expense or damage which it may be obligated to pay by reason for such infringement at any time during the prosecution of the work or after completion of work.

16. SURVEYS, PERMITS AND REGULATIONS

- a. Unless otherwise expressly provided for in these specifications, the City will furnish to the Contractor all base line surveys for the work. Any additional surveys, such as construction staking, shall be the responsibility of the Contractor.
- b. The Contractor shall procure and pay for all permits, licenses and approvals necessary for the execution of this contract.
- c. The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to the performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences, or other protective facilities.

17. CONTRACTOR'S OBLIGATIONS

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary to properly perform and complete all the work required by this contract, within the time herein specified in accordance with the provisions of this contract and said specifications and in accordance with the plans and drawings covered by this contract and any and all supplemental plans and drawings, and in accordance with the directions of the City as given from time to time during the progress of the work. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required. The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the City.

18. WEATHER CONDITIONS

In the event of temporary suspension of work, or during inclement weather, or whenever the City shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his or their work and materials against damage to injury from the weather. If, in the opinion of the City, any work or materials shall have been damaged or injured by reasonable failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

19. PROTECTION OF WORK AND PROPERTY – EMERGENCY

- a. The Contractor shall at all times safely guard the City's property from injury or loss in connection with this contract. He shall at times safely guard and protect his own work, and that of adjacent property, from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the contract or by the City, or his duly authorized representative.
- b. In case of emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the City, in a diligent manner. He shall notify the City immediately thereafter. Any claim for compensation by the Contractor due such extra work shall be promptly submitted to the City for approval.
- c. Where the Contractor has not taken action, but has notified the City of a emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the City.
- d. The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in paragraph titled "Changes in Work" of the General Conditions.

20. INSPECTION

The authorized representative and agents of the City shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

21. REPORTS, RECORDS AND DATA

The Contractor shall submit to the City such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the City may request concerning work performed or to be performed under this contract.

22. SUPERINTENDENCE BY CONTRACTOR

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the City and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

23. CHANGES IN WORK

No changes in the work covered by the approved contract documents shall be made without having prior written approval by the City. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- a. Unit bid prices previously approved.
- b. An agreed lump sum.
- c. The actual cost of:
 - 1) Labor, including foreman;
 - 2) Materials entering permanently into the work;
 - 3) The ownership or rental cost of construction plant and equipment during the time of use on the extra work;
 - 4) Power and consumable supplies for the operation of the power equipment;
 - 5) Insurance;
 - 6) Social Security and old age and unemployment contributions;
 - 7) Taxes.

To the cost under c., there shall be added a fixed fee to be agreed upon, but not to exceed fifteen percent (15%) of the estimated cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

24. EXTRAS

Without invalidating the contract, the City may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the City and the price is stated in such order.

25. TIME FOR COMPENSATION AND LIQUID DAMAGES

- a. It is hereby understood and mutually agreed, by and between the Contractor and the City, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the work order.
- b. The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the City, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

c. If the said Contractor shall neglect, fail or refuse to complete this work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the City the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

d. It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (1) to any preference, priority or allocation order duly issued by the Government,
- (2) to unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the Public Enemy, acts of another Contractor in the performance of a contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; and
- (3) to any delays of subcontractors or suppliers occasioned by any other the causes specified in subsection (1) and (2) of this article.

Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the City shall grant a further period of time prior to the date of final settlement of the contract, notify the City, in writing, of the causes of the delay, whom shall ascertain the facts and extent of the delay and notify the contractor within a reasonable time of its decision in the matter.

26. CORRECTION OF WORK

All work, all materials, either incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the observation of the Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the City shall be equitable.

27. SUBSURFACE CONDITIONS FOUND DIFFERENT

Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, he shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the Plans or indicated in the Specifications, he will at once make such changes in the Plans and/or Specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph titled "Changes in Work" of the General Conditions.

28. CLAIMS FOR EXTRA COSTS

No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order approved by the City, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 23(c) of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the City, give the City access to accounts relating thereto.

29. RIGHT OF THE CITY TO TERMINATE CONTRACT

In the event that any of the provisions for this contract are violated by the Contractor, or by any of his subcontractors, the City may serve written notice upon the Contractor and the Surety of its intentions to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten(10) days, cease and terminate. In the event of any such termination the City shall immediately serve notice thereof upon the Surety and the contractor, and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance thereof within ten(10) days form the date of the mailing to such

Surety of notice of termination, the City may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and his Surety shall be liable to the City for any excess cost occasioned the City thereby, and in such event the City may take possession of and utilize in completing the work, such materials, appliances, and plants as may be on the site of the work and necessary therefor.

30. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Immediately after execution and delivery of the contract, and before the first partial payment is made, the Contractor shall deliver to the City an estimated construction progress schedule in form satisfactory to the City, showing the proposed dates of commencement and completion of each of the various subdivision of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimates of work done for the purpose in making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

Provided, further, that on completion and acceptance of each separate building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

- a. In preparing estimates the material delivered on the site and the preparatory work done may be taken into consideration.
- b. All material and work covered by partial payments made shall thereupon become the sole property of the City, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the City to require the fulfillment of all of the terms of the contract.

- c. City's right to Withhold Certain Amounts and Make Application thereof: the Contractor agrees that he will indemnify and save the City harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the City's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the City may, after having served written notice on the said Contractor, either pay unpaid bills, of which the City has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the City to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, the City shall be deemed the agent of the Contractor, and any payment so made by the City, shall be considered as a payment made under the contract by the City to the Contractor and the City shall not be liable to the Contractor for any such payment made in good faith.

31. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the City and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under this contract or the Performance and Payment Bond.

32. PAYMENTS BY CONTRACTOR

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of 90% of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used, and (c) to each of his subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his subcontractors to the extent of each subcontractor's interest therein.

33. ADDITIONAL OR SUBSTITUTE BOND

If at any time the City for justifiable cause, shall be or become dissatisfied with any surety or sureties that upon the Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the City so to do, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the City. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the City.

34. ASSIGNMENTS

The Contractor shall not assign the whole or any part of this contract or any moneys due or to become due hereunder without written consent of the City. In case the Contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that is agreed that the right of the assignee in and to any moneys due or to become due to the contractor shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called for in this contract.

35. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other contractor or any subcontractor shall suffer loss of damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor shall assert any claim against the City on account of any damage alleged to have been sustained, the City shall notify the Contractor, who shall indemnify and save harmless the City against any such claims.

36. SEPARATE CONTRACTS

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

37. SUBCONTRACTING

- a. The Contractor may utilize the service of specialty Subcontractors to those parts of the work which, under normal contracting practices, are then performed by specialty Subcontractors.
- b. The Contractor shall not award any work to any subcontractor without prior written approval of the City, which approval will not be given until the Contractor submits to the City, a written statement concerning the proposed award to the subcontractor, which statement shall contain such Information as the City may require.
- c. The Contractor shall be as fully responsible to the City for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of person directly employed by him.
- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the City may exercise over the contractor under any provision of the Contract documents.
- e. Nothing contained in this contract shall create any contractual relation between any subcontractor and the City.

38. ENGINEER'S AUTHORITY

- a. The Engineer shall give all order and directions contemplated under this contract and specifications relative to the execution of the work. The Engineer shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Engineer's estimates and decision shall be final and conclusive, except as herein otherwise expressly provided. In case any questions shall arise between the parties hereto relative to said contract or specifications, the determination or decisions of the engineer shall be a condition precedent to the right of the contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.
- b. The engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this contract and other Contractors performing with the City shall be adjusted and determined by the engineers.

39. USE OF PREMISES AND REMOVAL OF DEBRIS

The contractor expressly undertakes at his own expense:

- a. to take every precaution against injuries to persons or damage to property;
- b. to store his apparatus, materials, supplies, equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of this work or the work of any other contractor;
- c. to place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- d. to clean up frequently all refuse, rubbish, scrap materials, and debris cause by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- e. before final payment to remove all surplus material, falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat orderly condition;
- f. to effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor.

40. QUANTITIES OF ESTIMATE

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the City to complete the work contemplated by this contract, and such increase or diminution shall in no way vitiate this contract, nor shall any such increase or diminution give cause for claims or liability for damages.

41. RIGHTS-OF-WAY AND SUSPENSION OF WORK

The City shall furnish all land and rights-for-way necessary for the carrying out of this contract and the completion of the work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin his work upon such land and rights of way as the City may have previously acquired and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the City be prevented or enjoined from preceding with the work, or from authorizing its prosecution or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, or to withdraw from the contract except by consent of the City; but time for completion of the work will be extended to such time as the City determines will compensate for the time lost by such delay, such determination to be set forth in writing.

42. GENERAL GUARANTY

Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the City shall constitute an acceptance of work not done in accordance with the contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibilities for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The City through the Engineer will give notice of observed defects with reasonable promptness.

43. CONFLICTING CONDITIONS

Any provision in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

44. NOTICE AND SERVICE THEREOF

Any notice to any Contractor from the City relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to said Contractor or his authorized representative on the work.

45. REQUIRED PROVISIONS DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and of through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of whether party the contract shall forthwith be physically amended to make such insertion or correction.

46. PROTECTION OF LIVES AND HEALTH

- a. In order to protect the lives and health of his employees under the contract, the Contractor shall comply with all pertinent provisions of the "Manual of Accident Prevention in Construction" issued by the Associated General Contractors of America, Inc. and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the contract.
- b. The contractor alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

47. CLEANING UP

The contractor shall keep the sites and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to so by the City. Before final inspection and acceptance of the project, the contractor shall thoroughly clean the sites, and completely prepare the project and site for project close out.

48. GUARANTEE/WARRANTY

The contractor shall unconditionally guarantee workmanship for the following:

- a. In areas of grading and erosion control, the site disturbance shall be vegetated and shall be maintained as such to ensure growth of stable vegetation within the site. The Contractor will repair and reseed, mulch, tack any eroded areas within the site for up to six (2) months after the final grading operation. The cost of the repair shall and reseeded operations shall be borne by the contractor and no additional cost to the City.

- b. Any damage to existing utilities that are NOT slated for removal shall be repaired in accordance to the City of the utilities disturbed.
- c. Any work pertaining to installation of equipment and/or material as well as the material itself shall be under warranty for twelve (12) months.
- d. Additionally, the City may bring an action for latent defects caused by the negligence of the contractor, which is hidden or not readily apparent to the City at the time of beneficial occupancy or final acceptance, whichever occurred first, in accordance with applicable law.

SPECIAL CONDITIONS

1. GENERAL

These Special Conditions are intended to supplement the requirements of the General Conditions, and, where requirements of this section conflict with or at variance with those of the General Conditions, this section shall take precedence over and modify such variation.

2. CONTRACTOR PERMITS AND FEES

The Contractor shall obtain all required licenses and work permits for the project from Federal, State or local municipality prior to beginning work. These fees are to be considered part of the project. This includes privilege license to work in the City as well as the necessary demolition permit from Vance County.

3. CODES, PERMITS, AND INSPECTIONS

The Contractor shall comply with all the latest building codes. Prior to acceptance of the work, an inspector for the City shall inspect all work and provide certification for work completion.

4. BARRICADES AND WARNING SIGNS

The Contractor shall provide and maintain all safety and signs and suitable lights, signals, signs, etc. necessary for the protection of the work and the safety of the public and pedestrians. This shall be part of the project and will be considered incidental in cost.

5. HOURS OF OPERATION

Contractor shall commence work between hours of 7:00 am 6:00 pm weekdays (City Code Section 10-16). Any work done on Saturday must be approved by City within 48 hours prior to that work day.

6. WORK CONDITIONS

Contractor shall maintain a relatively clean work area and free from rubbish at all times and shall remove debris from the work site from time to time or when directed by Owner. Before final inspection and acceptance of work, the Contractor shall thoroughly clean the site(s) and completely prepare the project and site for final walkthrough.

7. REMOVED EQUIPMENT/MATERIALS

If contractor discovers any marketable personable property, fixtures, or in or attached to the structures, it shall deliver the same to the city which shall sell the same and credit the net proceeds therefrom against the cost of removal or demolition

8. GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES

A. General:

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on construction projects in the amount of \$30,000 or more. The legislation provides that the Municipality shall have a verifiable eight percent (8%) goal for participation by minority businesses in the total value of work for each project for which a contract of contracts are awarded.

These requirements are published to accomplish that end.

B. DEFINITIONS:

1. Minority – a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the peoples of North America; or female
2. Minority Business – means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual – means the same as defined in 15 U.S.C. 37.
“Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities”.
“Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.”
4. Public Entity – means State and all public subdivisions and local government units.
5. Owner – The City of Henderson
6. Designer - Any person, firm, partnership, or corporation, which has contracted with the Owner to perform architectural or engineering, work.
7. Bidder – Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.
8. Contract – A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
9. Contractor – Any person, firm, partnership, corporation, association, or joint venture which has contracted with the State of North Carolina to perform construction work or repair.
10. Subcontractor – A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

C. RESPONSIBILITIES:

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

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

- a. Attend the scheduled prebid conference.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least fourteen (14) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification will include the following:
 - (1) A description of the work for which the subbid is being solicited.
 - (2) The date, time and location where subbids are to be submitted.
 - (3) The name of the individual within the company who will be available to answer questions about the project.
 - (4) Where bid documents may be reviewed.
 - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

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

- d. During the bidding process, comply with the contractor(s) requirements listed in the proposal for minority participation.
- e. Identify on the bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
- f. Make documentation showing evidence of implementation of PM, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by State Construction Office and HUB Office, upon request.
- g. Upon being named the apparent low bidder, the Bidder shall provide one of the following:
 - (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expresses as a percentage of the total contract price, which is equal to or more than the applicable goal;
 - (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. The contractor(s) shall identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in Article 31 of the General Conditions of the Contract to facilitate payments to the subcontractors.
- i. The contractor(s) shall submit with each monthly pay request(s) and final payment(s), "MBE Documentation for Contract Payment"- (Appendix E), for designer's review.

- j. During the construction of a project, at any time, if it becomes necessary to replace a minority business subcontractor, immediately advise the owner, State Construction Office, and the Director of the HUB Office in writing, of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.
- k. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit subbids from minority businesses.
- l. It is the intent of these requirements apply to all contractors performing as prime contractor and first tier subcontractor under construction manager at risk on state projects.

2. Minority Business Responsibilities:

While minority businesses are not required to become certified in order to participate in the State construction projects, it is recommended that they become certified and should take advantage of the appropriate technical assistance that is made available. In addition, minority businesses who are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

D. DISPUTE PROCEDURES:

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

E. MINORITY BUSINESS SUBCONTRACT GOALS:

The bidder must identify on its bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit (Affidavit A) listing good faith efforts **or** (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).

The lowest responsible, responsive bidder must provide Affidavit C, that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. **OR** Provide Affidavit C that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, **with documentation of Good Faith Effort, if the percentage is not equal to the applicable goal.**

OR

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

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

F. MINIMUM COMPLIANCE REQUIREMENTS:

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

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

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

9. CONTRACT CHANGES AND EXTRA WORK

Without invalidating the contract, the City Manager or acting official for the Owner may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the City Manager or acting official for the Owner, and the price is stated in such order. All extra work, whether or not to be performed at the same location or locations as the original work, shall be placed in effect by Change Order. In order to insure that the resurfacing program is evenly distributed throughout the City, the contractor is required to perform streets as directed by the City and as prioritized after the final number of tons is decided on.

I. GENERAL

1. SCOPE

The scope of this project consists of, but is not limited to, the following:

- A. Furnish all equipment, materials, and labor necessary to replace/repair existing roof at the City Hall.

2. AWARD

It is the intent of the Owner to award one contract for the entire project to one Contractor. If applicable, the General Contractor will be responsible for coordinating any and all subcontractors he chooses to use who are approved by the Owner.

The award will be made to a Qualified Contractor submitting the lowest responsive responsible bid. A Qualified Contractor is one who meets the requirements of these specifications, and demonstrates that he has sufficient equipment and manpower to perform this job within the allotted time frame.

3. TIME/CONTRACT DAMAGES

- A. The contractor is responsible for providing materials, labor, equipment and manpower to efficiently expedite the work as called for in these specifications.
- B. Damages will be imposed when the contract time, less credited rain days, is exceeded.
- C. Contract time: ____ **DAYS**. Coordinate any delivery times early in the project to prevent delays.

4. PERMITS

- A. The Contractor shall be responsible for obtaining all permits needed to perform these specification requirements.
- B. Obtain a privilege license to work within the City of Rocky Mount.

CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS	<input type="checkbox"/> Owner
	<input type="checkbox"/> Designer
	<input type="checkbox"/> Contractor Code ____ Item ____
	<input type="checkbox"/> Surety
	<input type="checkbox"/> Other

TO (OWNER): _____

CONTRACT FOR: _____

CONTRACT DATE: _____

PROJECT INFORMATION: _____

Name & Location: _____

State of: _____

County of: + _____

The undersigned, pursuant to Article 36 of the General Conditions of the Contract, hereby certifies that, he has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor and services performed, and for all known indebtedness and claims against the contractor for damages arising in any manner in connection with the performance of the contract referenced above for which the owner or his property might in any way be held responsible.

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever surety is involved, Consent of Surety is required. Indicate attachment: (yes) (no).

The following supporting documents should be attached hereto if required by the owner:

- a. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- b. Separate Releases or Waivers of Liens from subcontractors and material and equipment suppliers to the extent required by the owner, accompanied by a list thereof.
- c. Contractor's Affidavit of Release of Liens.

CONTRACTOR: _____

Address: _____

By: _____

Subscribed and sworn to before me this ___ day of _____ 20__

Signature of Notary Public: _____

Printed Name of Notary Public: _____

My Commission Expires: . _____

CONTRACTOR'S _____ Owner
_____ Designer
_____ Contractor Code _____ Item _____
AFFIDAVIT OF _____ Surety
RELEASE OF LIENS _____ Other

TO (OWNER): _____

CONTRACT FOR: _____

CONTRACT DATE: _____

PROJECT INFORMATION:

Name & Location: _____

State of: _____

County of: _____

CITY OF ROCKY MOUNT
ADMINISTRATIVE COMPLEX PARKING LOT
AND
SENIOR CENTER LIGHTING RETROFIT
(ARRA PROJECT)

The City of Rocky Mount is receiving bids from contractors to provide all labor, materials, supplies, transportation, permits, insurance and all else needed to perform this lighting retrofit contract. The Administrative Complex Parking Lot Light Retrofit will take place at 331 South Franklin Street. The Senior Center Lighting Retrofit will take place at 427 South Church Street. Funding for this contract will be paid with funds from the American Recovery and Reinvestment Act of 2009.

The contractor awarded the contract shall be a duly licensed electrical contractor with a valid NC Electrical license. All bid specification requirements shall be performed per OSHA requirements with all safety regulatin requirements performed at all times. The Contractor shall be responsible for providing all barricades or safety cones needed to block areas from access as needed while performing the job requirements.

All retrofit lighting used shall be of new manufacture not refurbished or remanufactured retrofit lighting.

All bids submitted for evaluation shall remain open for forty-five (45) days after the day of the bid opening, but Owner may, in his sole discretion, release any bid and return the bid security prior to that date.

The contractor awarded the contract shall be responsible for disposing of all bulbs in accordance with the Environmental Protection Agency's requirements as of July 1, 2011 and provide documentation of sale before final payment is made.

A bid security in the amount of five percent (5%) must accompany these bid specification. The bid bond must be either cash, cashier's check, certified check, or a bid bond by a surety licensed in North Carolina. No faxed bid bonds will be accepted.

No performance or payment bonds will be required for this project.

A Certificate of Insurance is to be provided by the apparent lowest responsive responsible bidder before contract award. The City of Rocky Mount shall be named as additional insured on the successful bidder's Certificate of Insurance.

The City of Rocky Mount reserves the right to reject any and all bids.

CITY OF ROCKY MOUNT

Delton L. Farmer

Delton L. Farmer

Purchasing Manager

ADMINISTRATIVE COMPLEX PARKING LOT LIGHT RETROFIT

GENERAL REQUIREMENTS:

1. The Contractor awarded the Contract shall be responsible for retrofitting all 3 tier light posts to single top posts to accommodate the new retrofit lights. There are a total of thirteen (13) posts to be retrofitted.
2. For all "Post Top" fixtures, after award, the contractor shall verify existing post tops to be compatible with replacement fixtures selected.
3. LED fixture life specified shall be supported by IESNA LM-80 data and certified photometric layout in accordance with IESNA LM-79 and shall be submitted for approval prior to ordering the fixture. Luminaire photometric test to be performed to IESNA LM-79-80 standard. Fixtures submitted without IESNA LM79 and LM80 will be rejected.
4. Fixture manufacturer to provide independent test lab reports from a D.O.E. certified testing lab certifying fixture meets project requirements. In house reports will not be acceptable.
5. All replacement fixtures shall include the following features:
 - A. Fixtures are to be built around LED technology, such that the fixture cannot be used with any lamp source other than LED.
 - B. Fixtures shall be suitable for outdoor installation/exposed to the weather.
 - C. Nano optic technology (no lens). Fixture is to be a true LED fixture with no lens.
 - D. Color and style shall match existing.
 - E. Color rendering index (CRI) shall be 70CRI or greater.
 - F. 100% recyclable extruded aluminum heat sinks.
 - G. Tool-Less Entry.
 - H. Quick Connectors/Quick Disconnect Harness
 - I. Surge Suppression rated up to 10 KV.
 - J. Modular design to facilitate simple field change-out of LEDS.
 - K. Die-cast and extruded-aluminum housing.
 - M. UL Listing and Wet Location Listed
 - N. Fixtures shall be ROHS Compliant.

O. Fixtures shall meet Buy American Act.

P. Fixture manufacturer to provide a five year warranty including LEDs and Drivers. Fixture finish to be warranted for a period of 10 years.

The Contractor awarded the contract shall be able to perform the job requirements with the least amount of disturbance to daily parking space requirements. The Contractor's proposed plan to perform this part of the contract shall be a part of their bid price proposal for evaluation.

SENIOR CENTER LIGHTING RETROFIT

1. Replace or retrofit existing fixtures with a 4 foot, 2 bulb T8 fixture.

Lamp to have 4100k color temperature.

Select lamps from any of the following manufactures:

Phillips/GE/Sylvania or approved equal manufactured in the U.S.

Ballasts shall have a low ballast factor (.77 to .78)

All lamps and ballast provided must qualify for utility rebates.

Replace lenses were missing or broken.

2. De-lamp from 4 lamps to 3 lamps utilizing a kit. The replacement lamps shall be 4 foot, 25W, T8 with 4100k color temperature by any of the following companies:

Phillips/GE/Sylvania or approved equal manufactured in the U.S.

Ballast shall have a ballast factor of .87 (nbf)

Kits shall be 3 lamp 4 foot with a white reflector

Replace lenses where missing or broken.

3. Replace existing fixtures with a 3 lamp F17 (2') 2 x 2 kit with a 3 lamp ISN ballast (bf of .87)

4. Install 6 lampS T8, shatter shield lamps with wire guard in the Senior Center Gym.

Lamps shall be 32 watt XP, 5000K color temperature

Ballast factor of 1.15 or greater

Voltage is 110 to 277

Lamps are to be installed using a grapple

5. Install IR sensors to small offices and conference rooms

Install dual tech sensors with IR and ultrasonic features to each restroom

Install ceiling sensors in classrooms

Total number of rooms to control with sensors: 22 as shown on the attached Map

SWIMMING POOL LIGHTING RETROFIT

6. Provide Phillips 330 watt Alstart lamp and 400 watt pulse start ballast

7. Replace existing incandescent exit signs with LED exit fixtures

The Contractor awarded the contract shall perform the project requirements during regular business hours of 8:00 A.M. – 6:30 P.M., Monday – Thursday and 8:00 A.M. – 4:30 P.M. on Friday.

PRICE PROPOSAL
FOR
THE ADMINISTRATIVE COMPLEX PARKING LOT AND SENIOR CENTER
LIGHTING RETROFIT
ADMINISTRATIVE COMPLEX PARKING LOT LIGHTING RETROFIT

I have reviewed the bid specification requirements and visited both worksites. My total cost to meet all specification requirements for inspection and acceptance by the City of Rocky Mount including delivery is:

1. For 24' pole lights: 180 LED, 211 watts per hour, BETA LED #ARE-EDG-5M-R3-18-C-UL-BZ or approved equal.

12 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

2. For 12' pole lights: 60 LED, 71 watts per hour, BETA LED #ARE-EDR-5M-R3-06-C-UL-BZ or approved equal

25 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

3. For Wall Mounts: 60 LED, 71 watts per hour, BETA LED #ARE-EDR-5M-R3-06-C-UL-BZ-WM or approved equal.

12 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

SENIOR CENTER LIGHTING RETROFIT

Each of the following "NOTE NUMBERS" refer to the "NOTE NUMBERS" on the attached drawings to show the location where each retrofit light is to be used.

Note 1. Replace or retrofit existing fixtures with a 4 foot, 2 bulb T8 fixture.

Lamp to have 4100k color temperature.

Select lamps from any of the following manufactures:

Phillips/GE/Sylvania or approved equal manufactured in the U.S.

Ballasts shall have a low ballast factor (.77 to .78)

All lamps and ballast provided must qualify for utility rebates.

Replace lenses were missing or broken.

244 each per unit cost \$_____ Total Cost \$_____

Namebrand: _____ Model: _____

Note 2. De-lamp from 4 lamps to 3 lamps utilizing a kit. The replacement lamps shall be 4 foot, 25W, T8 with 4100k color temperature by any of the following companies:

Phillips/GE/Sylvania or approved equal manufactured in the U.S.

Ballast shall have a ballast factor of .87 (nbf)

Kits shall be 3 lamp 4 foot with a white reflector

Replace lenses where missing or broken.

38 each per unit cost \$_____ Total Cost \$_____

Namebrand: _____ Model: _____

Note 3. Replace existing fixtures with a 3 lamp F17 (2') 2 x 2 kit with a 3 lamp ISN ballast (bf of .87)

24 each per unit cost \$_____ Total Cost \$_____

Namebrand: _____ Model: _____

Note 4. Install 6 lampS T8, shatter shield lamps with wire guard in the Senior Center Gym.

Lamps shall be 32 watt XP, 5000K color temperature

Ballast factor of 1.15 or greater

Voltage is 110 to 277

Lamps are to be installed using a grapple

22 each per unit cost \$_____ Total Cost \$_____

Namebrand: _____ Model: _____

Note 5. Install IR sensors to small offices and conference rooms

Install dual tech sensors with IR and ultrasonic features to each restroom

Install ceiling sensors in classrooms

Total number of rooms to control with sensors: 22 as shown on the attached Map

22 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

SWIMMING POOL LIGHTING RETROFIT

Note 6. Provide Phillips 330 watt Alstart lamp and 400 watt pulse start ballast or approved equal.

Six of the nine pool lights to be retrofitted will have to be lowered by 2 feet. This requirement is to be performed to meet electrical code requirements.

9 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

7. Replace existing incandescent exit signs with LED exit fixtures

8 each per unit cost \$ _____ Total Cost \$ _____

Namebrand: _____ Model: _____

Administrative Complex Parking Lot Total \$ _____

Senior Center Total \$ _____

GRAND TOTAL \$ _____

NORTH CAROLINA ELECTRICAL CONTRACTOR'S LICENSE NUMBER: _____

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ ZIP: _____

TELEPHONE NO.: _____

E-MAIL ADDRESS: _____

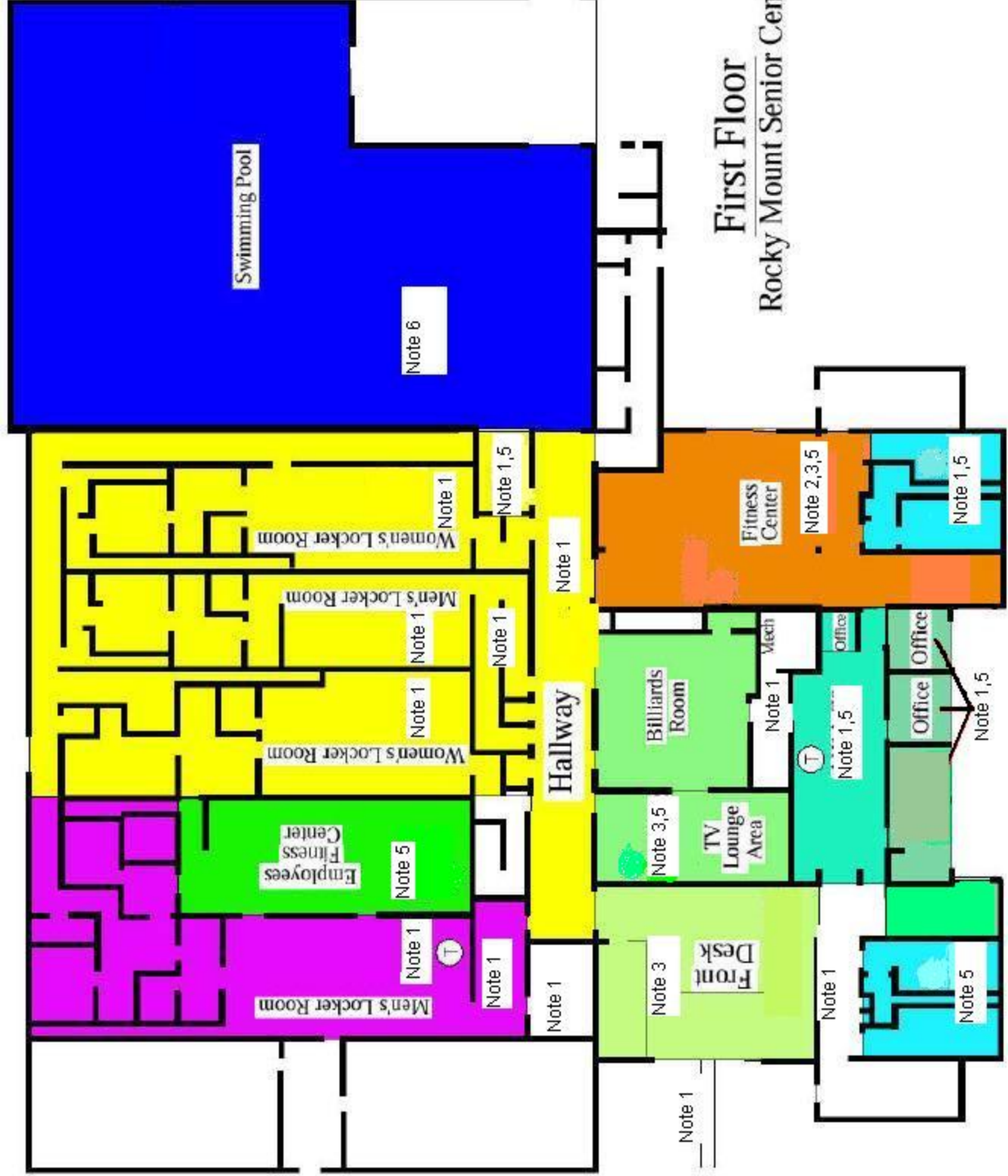
SIGNED: _____

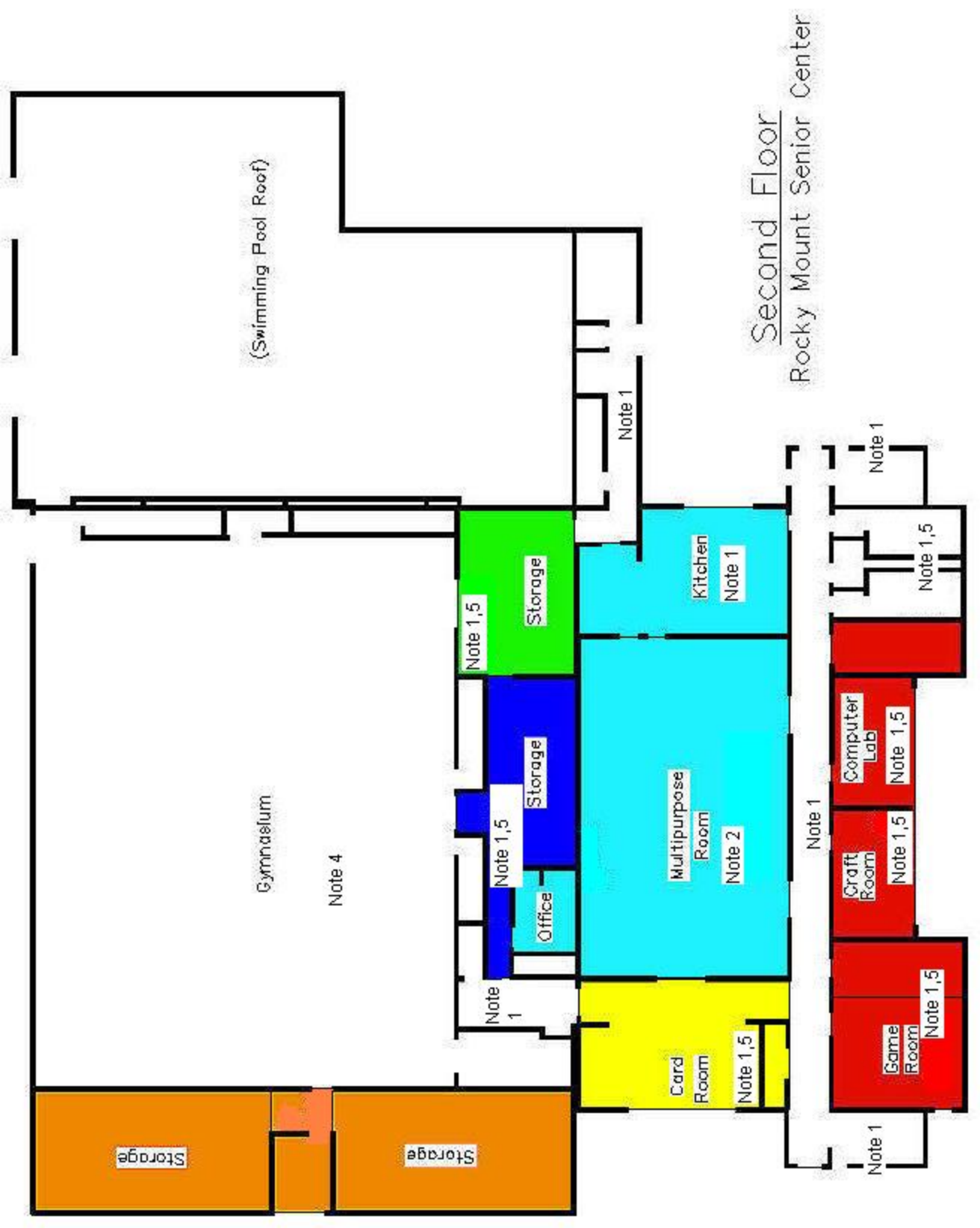
DATE: _____

PURSUANT TO (G.S. 143 - 129) THIS BID MUST BE ACCOMPANIED BY A BID BOND OF NO LESS THAN FIVE (5%) PERCENT OF THE GRAND TOTAL OF THIS PROPOSAL. BID BOND MUST BE EITHER CASH, CASHIERS CHECK, CERTIFIED CHECK, OR A BID BOND BY A SURETY LICENSED IN NORTH CAROLINA.

NO FAXED BID BONDS WILL BE ACCEPTED.

First Floor Rocky Mount Senior Center





Second Floor
Rocky Mount Senior Center

State of North Carolina AFFIDAVIT A-Listing of Good Faith Efforts

County of _____ (Name of Bidder)

Affidavit of _____

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

Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 1.0101)

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

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

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

SEAL Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of

_____ 20 _____

Notary Public _____

My commission expires _____

State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract

With Own Workforce

County of _____

Affidavit of _____

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the _____ contract.

(Name of Project)

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

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

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

Title: _____

SEAL

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of

_____ 20 _____

Notary Public _____

My commission expires _____

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

County of _____

If the portion of the work to be executed by minority businesses as defined in GS143-128.2(g) is equal to or greater than 5% of the bidders total contract price, then the bidder must complete this affidavit. This affidavit shall be provided by the apparent lowest responsible, responsive bidder within 72 hours after notification of being low bidder.

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

Affidavit of _____ I do hereby certify that on

(Name of Bidder)

_____ (Project Name)

Project ID# _____ Amount of Bid \$ _____

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

Attach additional sheets if required

Name and Phone Number	*Minority Category	Work description	Dollar Value

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

Pursuant to GS 143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

SEAL

Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of

_____ 20 _____

Notary Public _____

My commission expires _____

State of North Carolina AFFIDAVIT D Good Faith Efforts

County of _____

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

If the goal of 5% participation by minority business is not achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

(Name of Bidder)

Affidavit of: _____

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

Name and Phone Number	*Minority Category	Work description	Dollar Value

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

Documentation of the Bidder’s good faith efforts to meet the goals set forth in these provisions. Example of document includes, but is not limited to, the following evidence:

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

I.	Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit or joint pay agreements to secure loans, supplies or letter of credit, including waiving of credit that is ordinarily required.
----	---

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

Date: _____ Name of Authorized Officer: _____

Signature: _____

SEAL

Title: _____

State of North Carolina, County of _____

Subscribed and sworn to before me this _____ day of

_____ 20 _____

Notary Public _____

My commission expires _____

APPENDIX E

MBE DOCUMENTATION FOR CONTRACT PAYMENTS

Prime Contractor/Architect: _____

Address & Phone: _____

Project Name: _____

Pay Application #: _____ Period: _____

The following is a list of payments to be made to minority business contractors on this project for the above-mentioned period.

Firm Name	*Minority Category	Payment Amount	Owner Use Only

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

Date: _____ Approved/Certified By: _____

Name

Title

Signature

**** THIS DOCUMENT MUST BE SUBMITTED WITH EACH PAY REQUEST & FINAL PAYMENT ****

CITY OF ROCKY MOUNT BID PROTEST PROCEDURE

PURPOSE

ARRA funding requires a bid protest procedure be in place.

PROCEDURE

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid, Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of the City notifying the lowest responsible bidder.

The protest must be addressed to the Purchasing Manager, City of Rocky Mount, 331 South Franklin Street, Rocky Mount, N.C. 27802.

1. Name, address, telephone number, facsimile number and e-mail of the protester.
2. Signature of the protester or authorized agent.
3. The bid name and number.
4. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
5. Any supporting exhibits, evidence, or documents to substantiate any claims.
6. All information establishing that the protester is an interested party for the purpose of filing a protest.
7. The form of relief requested

After careful consideration of all relevant information, and consultation with the appropriate parties the City of Rocky Mount Purchasing Manager shall make a written decision.

A decision of the Purchasing Manager may be appealed to the City Manager depending on the type of bid. An appeal must be in writing and be delivered to the City Manager, within seven (7) calendar days of the date of the Purchasing Manager's faxed or emailed decision.

Any and all costs incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

CONTRACT PROVISIONS

By submission of a proposal, Contractor agrees to comply with the following provisions. Failure to comply with any and all provisions herein may be cause for the contracting agency to issue a cancellation notice to a contractor.

Reporting Requirements

The Contractor is notified that this project will be financed with *American Recovery and Reinvestment Act of 2009* (hereinafter, "ARRA") Funds. The Contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA, the State shall require that the Contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

Posting with the Local Employment Security Commission

In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI.

Required Contract Provision to Implement ARRA Section 902

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Authority of the Inspector General provision

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Buy American provision

Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The Contractor must obtain written exception from this provision from the agency issuing the contract.

Wage Rate Provision

Section 1606 of the ARRA requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The contractor agrees that by the submission of a proposal in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act.

Availability and Use of Funds

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Whistleblower Provisions

Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 85-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees.

Outsourcing outside the USA without Specific Prior Approval Provision

Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.

Federal, State and Local Tax Obligations

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Anti-Discrimination and Equal Opportunity

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

Office of State Budget and Management Access to Records

OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.

SPECIAL CONDITIONS

1. Project is financed through funding from the *American Recovery and Reinvestment Act of 2009* (ARRA). Contractor must include all special conditions of ARRA funds in any other contract or subcontract for goods and services with this bid.
2. U.S. Comptroller General, the U.S. Inspector General, and the Department of Energy and representatives have the authority to examine any records or interview any officer or employee of the contractor and subcontractor that directly involve transactions from the contract.
3. Contract is subject to “Buy American” provision in Section 1605 of the Recovery Act. Iron, steel, and manufactured goods used in public buildings or public works projects, including public housing, must be manufactured in the United States.
 - a. Manufactured good means a good brought to the construction site for incorporation into the building or work that has been processed into a specific form and shape, or combined with other raw material to create a material that has different properties.
 - b. Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
4. Project is covered by contractor Whistleblower protection, when non-Federal employees provide evidence disclosing gross management, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contract.
5. With issuance of bid, contractor assures that it has obtained a DUNS number and has registered with the Central Contractor Registration (CCR). This requirement also applies to any subcontract as a result of this bid.
6. Contract may not be used to undertake or make progress toward any activity to develop casinos, gambling establishments, aquariums, zoos, golf courses, or swimming pools.
7. Contractor agrees that for any contract award that exceeds \$25,000, supplemental information concerning contractor’s DUNS number, product/service description, headquarter location, job information, and any other information required as a result of contract will be provided as part of Recovery Act reporting completed on a quarterly basis.

8. The contractor awarded the contract shall ensure that all sub-contractors are aware of these requirements before sub-contracts are awarded.

9. The contractor must comply with the minimum rates for wages for laborers and mechanics as determined by the Secretary of Labor in accordance with the provisions of the Davis-Bacon and Related Acts, as detailed in attachment of 29 CFR 5.5. Additionally, compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) is also required.

10. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

11. All records are required to be retained for a minimum of three years after the completion of all terms of the contract.

12. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulation (29 CFR Part 3).

13. Contractor agrees to refer to the Department of Energy or appropriate Inspector General any credible evidence of a principal, employee, agent, contractor, subcontractor, or other person that has submitted a false claim under the False Claims Act. This includes any evidence of criminal or civil law violations with respect to fraud, conflict of interest, bribery, gratuity, or other misconduct with Recovery Act funds.

14. Contractor may protect technical data and other data, including trade secrets, privileged , or confidential information that the contractor does not want disclosed to public or used for any other purpose than this contract. The contractor must specifically identify each page, including the line and paragraph of the data to be protected with the following notice, which also should be included on cover sheet of the application:

Notice of Restriction on Disclosure and Use of Data

Bidder: _____ Address: _____

By: _____ Telephone No.: _____

Authorized to Sign

Title: _____ Fax No.: _____

Date: _____

ATTACHMENT 1

General Decision Number: NC100041 03/12/2010 NC41

Superseded General Decision Number: NC20080041

State: North Carolina

Construction Type: Building

County: Vance County in North Carolina.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	03/12/2010

SUNC1990-006 02/12/1990

	Rates	Fringes
Air conditioning mechanic.....	\$ 7.25	
Bricklayer.....	\$ 7.47	
Carpenter.....	\$ 7.25	
Cement mason/concrete finisher.....	\$ 7.25	
Electrician.....	\$ 7.25	
Glazier.....	\$ 8.09	
Insulator/asbestos worker _(batt & blown).....	\$ 7.25	
Ironworker.....	\$ 7.25	
Laborer, general.....	\$ 7.25	
Painter.....	\$ 7.25	
Plumber/pipefitter	\$ 7.25	
Power equipment operators:		
_Backhoe.....	\$ 7.25	
_Bulldozer.....	\$ 7.25	
_Crane.....	\$ 7.25	
_Distributor.....	\$ 7.25	
_Forklift.....	\$ 7.25	
_Grease person - oiler.....	\$ 7.25	

_Loader.....\$ 7.25
 _Mechanic.....\$ 7.25
 _Motor grader.....\$ 7.25
 _Pan.....\$ 7.25
 _Paver.....\$ 7.25
 _Roller.....\$ 7.25
 _Screed.....\$ 7.25
 _Tractor.....\$ 7.25
 Roofer.....\$ 7.25
 Sheet metal worker.....\$ 7.25
 Soft floor layer.....\$ 7.25
 Tile setter.....\$ 7.25
 Truck driver.....\$ 7.25
 Drywall hanger.....\$ 7.25
 Drywall Finisher/Taper.....\$ 7.35
 FORM SETTER (Concrete).....\$ 7.25

 WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

**STATE ENERGY PROGRAM – RECOVERY FUNDS
DOE AWARD AGREEMENT (DE-EE000157) TERMS AND CONDITIONS**

This award/agreement consists of the Grant and Cooperative Agreement cover page, plus the following:

- a. Special terms and conditions.
- b. Attachments:

Attachment No.	Title
1	Intellectual Property Provisions
2	Federal Assistance Reporting Checklist
3	Budget Page(s)
4	SEP Narrative Information Worksheets
5	Wage Determinations

- c. Applicable program regulations, 10 CFR Part 420 at <http://ecfr.gpoaccess.gov>.
- d. DOE Assistance Regulations, 10 CFR Part 600 at <http://ecfr.gpoaccess.gov>
- e. Application/proposal as approved by DOE.
- f. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at http://management.energy.gov/business_doe/1374.htm.

RESOLUTION OF CONFLICTING CONDITIONS

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS

- a. If actual allowable indirect costs are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.
- b. Recipients are expected to manage their indirect costs. DOE will not amend an award solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the recipient must absorb the underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.

USE OF PROGRAM INCOME – ADDITION

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and use it to further eligible project objectives.

STATEMENT OF FEDERAL STEWARDSHIP

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

SITE VISITS

DOE-authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Grantee must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

REPORTING REQUIREMENTS

- a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database (www.osti.gov/energycitations).

c. Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

PUBLICATIONS

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number(s) *DE-EE0000157*."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.

FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION

a. The intellectual property provisions applicable to this award are provided as an attachment to this award. A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.

b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual_Property_\(IP\)_Service_Providers_for_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf).

LOBBYING RESTRICTIONS

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be Americanmade.

PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS CONTRACTORS' LABOR RELATIONS ON FEDERALLY FUNDED CONSTRUCTION PROJECTS

a. Unless in conflict with State or local laws, you must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

b. The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

c. Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.

DECONTAMINATION AND/OR DECOMMISSIONING (D &D) COSTS

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide longterm economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Grantee shall use grant funds in a manner that maximizes job creation and economic benefit.

Grantee shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Grantee, contractors, and subcontractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The federal government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. Grantee will be provided these details as they become available. Grantee must comply with all requirements of the Act.

Definitions

For purposes of these special provisions, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds, including the Grantee.

Special Provisions

A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

(1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to: Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.) A form of the notice that meets the requirements of this section is located at the

following internet address:

<http://www.recovery.gov/Contact/ReportFraud/Documents/Whistleblower+Poster.pdf>

G. Request for Reimbursement

RESERVED

H. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.

I. Information in supporting of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

J. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

K. Additional Funding Distribution and Assurance of Appropriate Use of Funds Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution – After adoption of a State legislature’s concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State’s discretion.

L. Certifications

With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY

- (a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- (b) The reports are due no later than ten calendar days after each calendar quarter in which the Recipient receives the assistance award funded in whole or in part by the Recovery Act. Unless the SEO notifies the Grantee in writing that the SEO delegates the reporting responsibility to the Grantee, the SEO will assume responsibility for submitting these reports on behalf of Grantee; thus, Grantee shall submit its reports to the SEO no later than five calendar days after each calendar **month** in which Grantee receives the assistance award in the form designated by the SEO.
- (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- (d) The Recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is prefilled is corrected or updated as needed.

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)—SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

The following provisions apply only to public building(s) and public work(s) as defined below:

(a) *Definitions.* As used in this award term and condition—

Designated country —(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods —(1) Is wholly the growth, product, or manufacture of a designated country; or (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good —(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

(1) Processed into a specific form and shape; or (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.* (1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

None

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act. (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison (If Applicable)

<i>Description</i>	<i>Unit of Measure</i>	<i>Quantity</i>	<i>Cost (dollars) *</i>
<i>Item 1.</i>			
<i>Foreign steel, iron, or manufactured good</i>			
<i>Domestic steel, iron, or manufactured good</i>			
<i>Item 2.</i>			
<i>Foreign steel, iron or manufactured good</i>			
<i>Domestic steel, iron, or manufactured good</i>			

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

*[*Include all delivery costs to the construction site.]*

RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 —Uniform Administrative Requirements for Grants and Agreements || and OMB Circular A–102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, —Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix —ARRA- || in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

You are restricted from taking any action using federal funds for projects under this award that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding these projects.

Prohibited project activities include (but are not limited to):

1. all boiler activities
2. steam systems and waste process systems

The project activities listed above and any activities not specifically authorized below will require an individual NEPA review and determination. You must submit an environmental questionnaire to the DOE Project Officer for each project activity identified above to allow DOE to conduct an individual NEPA review and determination.

If you move forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA determination, you are doing so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

If DOE determines that NEPA requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS) for a project you propose, you will be responsible for paying the cost of preparing an EA or EIS. Preparation of these types of NEPA documents can require 6-24 months. Accordingly you should carefully consider whether such projects are consistent with the objectives of the ARRA and will allow the expenditure of funds within the time periods allowed for by that statute.

This restriction does not preclude you from: *performing information gathering, analysis, documentation, dissemination and training and providing technical advice and planning assistance for the activities listed above.*

Nor does this restriction preclude you from conducting the following project activities:

- Energy Audits, feasibility studies, training programs, education/outreach
- Solar Electricity /Photovoltaic – appropriately sized system or unit on existing rooftops and parking shade structures; or a 60 kW system or smaller unit installed on the ground within the boundaries of an existing facility.
- Wind turbine – 20 kW or smaller
- Solar thermal – system must be 20 kW or smaller
- Ground source heat pump – 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system
- Installation of energy efficient lighting in existing buildings
- Installation of devices and systems in existing buildings to promote Smart energy consumption patterns.

HISTORIC PRESERVATION

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (known in North Carolina as the —North Carolina Department of Cultural Resources ||) (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html> .

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

Grantee acknowledges that the Recipient has entered into a Memorandum of Agreement (MOA) with the SHPO and the DOE dated May 18, 2010 governing the rights and obligations of the parties regarding Section 106 compliance. The Recipient hereby assigns and the Grantee assumes the rights and obligations of the SEO under the MOA, as the same may be modified from time to time.

ADVANCED UNDERSTANDING CONCERNING PUBLICLY FINANCED ENERGY IMPROVEMENT PROGRAMS

The parties recognize that the Recipient may use funds under this award for Property- Assessed Clean Energy (PACE) loans, Sustainable Energy Municipal Financing, Clean Energy Assessment Districts, Energy Loan Tax Assessment Programs (ELTAPS), or any other form or derivation of Special Taxing District whereby taxing entities collect payments through increased tax assessments for energy efficiency and renewable energy building improvements made by their constituents. The Department of Energy intends to publish "Best Practices" or other guidelines pertaining to the use of funds made available to the recipient under this award pertaining to the programs identified herein. By accepting this award, the recipient agrees to incorporate, to the maximum extent practicable, those Best Practices and other guidelines into any such program(s) within a reasonable time after notification by DOE that the Best Practices or guidelines have been made available. The recipient also agrees, by its acceptance of this award, to require its sub-recipients to incorporate to the maximum extent practicable the best practices and other guideline into any such program used by the sub-recipient.

DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Definitions: For purposes of this article, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

- (1) —Award means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.
- (2) —Contractor means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lowertier subcontractors. —Contractor does not mean a unit of State or local government where construction is performed by its own employees.
- (3) —Contract means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. —Contract does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.
- (4) —Contracting Officer means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.
- (5) —Recipient means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) —Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of —Award above.

(7) —Subrecipien means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis Bacon Act

(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 attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 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 § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) 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:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and 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, 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.

(C) 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.

(D) 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.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part 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.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient 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 Department of Energy, Recipient, or Subrecipient, 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.

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

(B) Each payroll submitted shall be accompanied by a —Statement of Compliance signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 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;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the —Statement of Compliance || required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy 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 cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

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

apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by 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.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) 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.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which 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.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) 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 (b)(1) 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 (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient 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 (b)(2) of this section.

(4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(5) 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. 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 Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

RECIPIENT FUNCTIONS

(1) This delegation of DOE functions to the Recipient applies only to DBA effort performed by Subrecipients and Contractors under this award. Those functions are not delegated to the Recipient for any DBA effort performed by employees of the Recipient under this award. On behalf of the DOE, Recipient shall perform the following functions:

- (a) Obtain, maintain, and monitor all DBA certified payroll records submitted by the Subrecipients and Contractors at any tier under this Award;
- (b) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;
- (c) Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (b) above;
- (d) Address any Subrecipient and any Contractor DBA non-compliance issues; if DBA non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to DOE;
- (e) Provide DOE with detailed information regarding the resolution of any DBA noncompliance issues;
- (f) Perform services in support of DOE investigations of complaints filed regarding noncompliance by Subrecipients and Contractors with DBA requirements;
- (g) Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer; and
- (h) Provide copies of all records upon request by DOE or DOL in a timely manner.

(2) All records maintained on behalf of the DOE in accordance with paragraph (1) above are federal government (DOE) owned records. DOE or an authorized representative shall be granted access to the records at all times.

(3) In the event of, and in response to any Freedom of Information Act, 5 U.S.C. 552, requests submitted to DOE, Recipient shall provide such records to DOE within 5 business days of receipt of a request from DOE.

PROPOSAL

TO: City of Rocky Mount

FROM:

Bidder _____
Address _____

Date of bid _____, **20** _____

The undersigned hereby signifies that it is (his/their) intention and purpose to enter into a formal Contract with the City of Henderson, to furnish all labor, materials, tools, equipment, apparatus, supplies, etc., required and to do all the work necessary for and because of the construction, erection, and/or installation of the proposed:

CITY OF ROCKY MOUNT ADMINISTRATIVE COMPLEX

for the City of Henderson in accordance with the Contract Documents. This price shall include Addenda numbers:

****Fill in appropriate Addenda number(s)****

Addendum No.: _____
Addendum No.: _____
Addendum No.: _____
Addendum No.: _____
Addendum No.: _____
Addendum No.: _____

TOTAL LUMP SUM BID: \$ _____

We further agree to complete the work in thirty (30) calendar days after receipt of Notice to Proceed.

There is deposited, herewith, a certified check in the amount of: _____ dollars (\$) _____; or a Bid Bond in the amount of five (5) percent of the total aggregate amount of this Bid made payable to the City, the same to be refunded to the undersigned under the conditions of and in accordance with the terms of this Proposal which are as follows:

THAT: The undersigned has carefully examined the Plans and Specifications and all other Contract Documents and fully understands them.

THAT: The undersigned has carefully examined the site of the project and is familiar with the conditions under which the work or any part thereof, is to be performed and the conditions which must be fulfilled in furnishing and/or installing, erecting or constructing any or all items of the Project.

THAT: The undersigned will provide all necessary tools, machinery, equipment, apparatus, and all other means necessary to do all work and will furnish all labor, materials and all else required to complete such Contract as may be entered into, in the manner prescribed in and in accordance with the terms of the Specifications and the Contract and in accordance with the true intent and meaning thereof, and in accordance with the Plans and/or Drawings and the requirements of the Engineers under them, in a first class manner.

THAT: The rights of the City and the recommendations of the Engineers are not to be questioned in the Award of Contracts.

THAT: It is the intention of the City to let Contracts on the basis of the Bids received in accordance with G.S. 143-129 and in such manner as they may deem to be for the best interest of the City.

THAT: The City Manager and the City Council reserves the right to reject any or all Proposals and to waive any informality in the Bidding.

THAT: The work will be awarded under one Contract and the City shall have the right to include such items or items as the City may deem to be in the best interest of the City.

THAT: On being awarded the Contract, the undersigned will execute a Performance Bond and a Payment Bond, on the forms included herein, each equal to one hundred (100) percent of the Contract price, as security for the faithful performance of the Contract.

THAT: The undersigned shall submit, herewith, drawings, or cuts and Specifications showing and describing in detail the equipment and/or apparatus that the undersigned proposes to furnish.

THAT: The undersigned shall submit, in the blank spaces provided, all data, guarantees, and other information called for.

THAT: This Proposal shall be signed and submitted in the manner prescribed in the Instructions to Bidders.

THAT: Should this Proposal be accepted by the City and the undersigned fail or neglect to execute the Contract and furnish the required Bonds within fifteen (15) days after receiving notifications of the acceptance of the Proposal and/or receipt of the formal Contract and Bond forms, the certified check or the Bid Bond, deposited herewith shall be retained by the City as liquidated damages, it being understood that the City reserves the right to extend the time allowed for executing the Contract and/or furnishing the Bond.

THAT: The undersigned will complete such Contract as may be entered into within the number of consecutive calendar days specified in the Contract Documents from the date of the Notice to Proceed.

THAT: The undersigned proposes to enter into a Contract in accordance with the Proposal, the Plans and Specifications and the Contract Documents included herein, for the preceding price, or prices shown on the following pages.

THAT: It is the intent of these Contract Documents to obtain a Contract based on Unit/Lump Sum Price. Where a discrepancy exists between words and numbers in the Bid amount, the written words shall govern.

THAT: The successful Bidder shall be required to submit a complete detailed cost breakdown of all of the Lump Sum items for payment purposes, for approval by the Engineer, prior to the Award of the Contract.

THAT: The Contractor agrees to comply with all requirements of local, State, or Federal permits that may be required for the completion of the work.

THAT: The successful Bidder shall have all proper Contractor's licenses and privilege licenses required under State and local laws governing their respective trade(s).

LIQUIDATED DAMAGES:

The undersigned agrees, further, that the City may retain those amounts indicated below from the amount of Compensation due the undersigned, under the terms of the Contract, for each and every day that the work remains incomplete beyond the completion date specified in the Notice to Proceed. This amount is agreed upon as the proper measure of liquidated damages the City will sustain, per day, by the failure of the undersigned to complete the work within the stipulated time, and it is not to be construed, in any sense, as a penalty.

No Contractor shall have a claim against the City, as a result of other construction, the Contractor's lack of progress or project completion.

Final Completion of Work

City's Damages
\$200/day

Other Charges

Total Liquidated
Damages

**CERTIFIED LIST OF EQUIPMENT/MATERIAL
MANUFACTURERS AND SUBCONTRACTORS**

The Bidder, _____, as part of the procedure for the submission of Bids on this project known as the submits the following list of Equipment/Materials Manufacturers and Subcontractors to be used in the performance of work to be done on this project. The list of Manufacturers and all equipment/materials furnished shall be based on requirements of the Contract Documents. Changes to this list after the Bid opening shall only be as approved by the City upon request by the Contractor or as required by the City based upon review of Contractor's submittals:

WORK TASK	SUBCONTRACTOR

It is understood and agreed that, if awarded a Contract, the Contractor will not make any additions, deletions, or substitutions to this Certified list without the consent of the City.

CERTIFICATION AFFIDAVIT

The information on the "Certified List of Equipment/Material Manufacturers and Subcontractors" is true and complete to the best of my knowledge and belief. I further understand and agree that, if awarded a Contract, this certification shall be attached thereto and become a part thereof.

NAME OF SIGNER: _____

TITLE OF SIGNER: _____

SIGNATURE: _____

DATE: _____

PROPOSAL SIGNATURE:

CORPORATION:

The Bidder is a corporation organized and existing under the laws of the State of _____ - which operates under the legal name of _____ and the full names of its officers are as follows:

President _____

Secretary _____

Treasurer _____

Manager _____

And it does have a corporate seal. The President is authorized to sign construction proposals and Contracts for the company by action of its Board of Directors taken, a certified copy of which is hereto attached. (Strike out this last sentence if not applicable.)

PARTNERSHIP:

The business is a partnership consisting of individual partners whose full names are as follows:

The partnership does business under the legal name of _____

INDIVIDUAL:

The Bidder is an individual whose full name is:

And if operating under a trade name, said trade name is as follows:

SIGNATURES:

Dated: _____, 20 _____.

Legal Entity

(SIGN HERE) By: _____(SEAL)

Seal-if Corporation Printed Name: _____

Telephone No.: _____

Subscribed and sworn to me this _____ day of _____, 20_____ .

Notary Public

My Commission Expires: _____

BID BOND

This Bid Bond is executed on _____, 20 _____

The name of the PRINCIPAL is _____

The name of SURETY is _____

The CITY OF ROCKY MOUNT is the OWNER

The amount of the Bond is _____

_____ Dollars (\$) _____)

KNOWN BY ALL MEN BY THESE PRESENTS, the Principal and Surety above named hereby held and firmly bound unto the above named OWNER hereinafter called the OWNER in the penal sum of the amount stated above in lawful money of the United States, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns. The condition of the above obligation is such that whereas the Principal has submitted to the OWNER a certain Bid attached hereto and hereby made a part hereof to enter into a Contract in writing, for the construction of:

CITY OF ROCKY MOUNT ADMINISTRATIVE COMPLEX LIGHTING RETROFIT

NOW THEREFORE

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have thereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

ATTEST:

Principal Secretary
(SEAL)

Principal

By: _____

Witness as to Principal

Address

Address

Surety

By: _____

Address

Phone Number

ATTEST:

NC Resident Agent
(SEAL)

Witness as to Surety

Address

**POWER OF ATTORNEY
(Attach)**

NON DISCRIMINATION CLAUSE

It is specifically agreed as part of the consideration of the signing of this contract that the parties hereto, their agents, officials, employees, or servants will not discriminate in any manner on the basis of race, color, creed, national origin, handicapped status, age, religion or sex with reference to the subject matter of this contract no matter how remote.

The parties hereto further agree in all respects to conform with provisions and intent of the City of Rocky Mount, North Carolina.

The provision being incorporated for the benefit of the City of Henderson and its residents may be enforced as set out in said ordinances, enforcement of this provision shall be by action for specific performance, injunctive relief, or other remedy as by law provided; and this provision shall be construed in such manner as to prevent and eradicate all discrimination based on race, color, creed, national origin, handicapped status, age, religion or sex.

This provision shall be binding on the successors and assigns of the parties hereto with reference to the subject matter of this contract.

CORPORATION:

Corporate Name

ATTEST:

(Assistant) Secretary

By:

(Vice) President

(Printed Name)

(Printed Name)

(Corporate Seal)

INDIVIDUAL:

By:

(Printed Name)

WITNESS:

(Printed Name)

CONTRACT

THIS CONTRACT made and entered into this _____ day of _____, in the Year 2011 by and between the City of Rocky Mount, North Carolina, party of the first part, hereinafter called the Owner, and _____ of _____, party of the second part, hereinafter called the Contractor.

WITNESSETH

THAT, WHEREAS, a Contract for:

_____ City of Rocky Mount Lighting Retrofit _____

has recently been awarded to the Contractor by the Owner at and for a sum equal to the aggregate cost of the work to be done and labor, materials, equipment, apparatus and supplies furnished at the prices and rates respectively named therefore, in the Proposal attached hereto:

Total Bid Accepted: \$ _____

AND WHEREAS, it was one of the conditions of said Award that a formal Contract should be executed by and between the Owner and the Contractor, evidencing the terms of said award, and that the Contractor shall commence the work to be performed under this agreement on a date to be specified in a written order of the Owner, and shall fully complete all work hereunder within _____ **Consecutive Calendar Days**, of the date specified in the Notice to Proceed.

NOW THEREFORE, THIS CONTRACT FURTHER WITNESSETH THAT, the Contractor doth hereby covenant and agree with the Owner that they will and faithfully perform and execute such work and furnish such labor, materials, equipment, apparatus and supplies, in accordance with each and every one of the conditions, covenants, stipulations, terms and provisions contained in the Specifications and in accordance with the Plans, at and for a sum equal to the aggregate cost of the work done and labor, materials, equipment, apparatus and supplies furnished at the prices and rates respectively named therefore in the Proposal attached hereto, and will well and faithfully comply with and perform each and every obligation imposed upon them by said Plans and Specifications and the terms of said Award.

The Contractor shall promptly make payments to all persons supplying materials in the prosecution of the work, and to all laborers and others employed thereon.

The Contractor shall be responsible for all damages to the property of the Owner that may be consequent upon the normal procedure of their work or that may be caused by or result from the negligence of the Contractor, his, its or their employees or agents, during the progress of, or connected with the prosecution of the work, whether within the limits of the work or elsewhere. The Contractor must restore all property so injured to a condition as good as it was when the Contractor entered upon the work.

The Contractor shall furthermore be responsible for, and be required to make good at his, its or their expense, any and all damages of whatever nature, to persons or property, arising during the period of this Contract, caused by carelessness, neglect, or want of due precaution on the part of the Contractor, shall also indemnify and save harmless the Owner, and the officers and agents thereof, from all claims, suits, and proceedings of every name and description which may be brought against the Owner, or the officers and agents thereof, for or on account of any injuries or damages to persons or property received or sustained by any person or persons, firm or corporation, or by or in consequence of any materials or workmanship in its construction, or by or on account of any accident, or of any other act of omission of the said Contractor, his, its or their agents, employees, servants or workmen.

It is agreed and understood that the Notice to Bidders, Information to Bidders, Instruction to Bidders, General Conditions, Supplementary Conditions, Special Project Conditions, Technical Specifications together with the enumerated Addenda, if any, the Proposal, and the Plans and/or Drawings are a part and parcel to this Contract to the same extent as if incorporated herein in full.

It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the performance and payment bonds hereto attached for its faithful performance and payment, the Owner shall deem the surety or sureties upon such Bonds to be unsatisfactory, or if, for any reason, such Bonds cease to be adequate to cover the performance or payment of the work, the Contractor shall, at his, its or their expense, within five (5) days after the receipt of notice from the Owner to do so, furnish an additional Bond or Bonds in such form and amount and with such surety or sureties as shall be satisfactory to the Owner. In such event no further payment to the Contractor shall be deemed to be due under this agreement until such new or additional security for the faithful performance and payment of the work shall be furnished in a manner and form satisfactory to the Owner.

And the Owner does hereby covenant and agree with the Contractor that it will pay to the Contractor, when due and payable under the terms of the Contract Documents and the Award, the sum mentioned above, and that it will well and faithfully comply with and perform each and every obligation imposed upon it by said Contract Documents and the terms of said Award.

LIQUIDATED DAMAGES

The parties recognize that Owner will suffer financial loss if the work is not substantially completed within the Contract time. They also recognize the delays, expense, and difficulty to both parties involved in proving or contesting the amounts of those losses. Instead of requiring proof of those amounts, it is agreed that Contractor shall be liable for and shall pay Owner the following amounts under Owner’s Damages, and Other Charges, all as liquidated damages, and not as a penalty.

	City’s Damages	Other Charges	Total Liquidated Damages
Final Completion of all work	\$500/day		

Liquidated damages will be assessed for the above listed amount(s) for each and every day the work remains incomplete after the completion date.

Completion for above listed item(s) shall be defined as completely installed including all associated appurtenances, tested and ready for the intended service.

REPORTING AND REGISTRATION REQUIREMENTS

The Contractor is notified that this project will be financed with American Recovery and Reinvestment Act of 2009 (hereinafter, "ARRA") Funds. The Contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA, the State shall require that the Contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

For reporting purposes, Contractor must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Number System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

POSTING WITH THE LOCAL EMPLOYMENT SECURITY COMMISSION:

In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI.

REQUIRED CONTRACT PROVISION TO IMPLEMENT ARRA SECTION 902:

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- a) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- b) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

AUTHORITY OF THE INSPECTOR GENERAL PROVISION:

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

BUY AMERICAN PROVISION:

Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The Contractor must obtain written exception from this provision from the agency issuing the contract.

WAGE RATE PROVISION:

Section 1606 of the ARRA requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The contractor agrees that by the submission of a proposal in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act.

AVAILABILITY AND USE OF FUNDS:

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

WHISTLEBLOWER PROVISIONS:

Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126- 84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95- 240 through 85-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees. Specifically, the Recovery Act provides that an employee of any non-Federal employer receiving Recovery Act funds, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employees' duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- Gross management of an agency contract or grant relating to covered funds;
- A gross waste of covered funds;
- A substantial and specific danger to public health or safety related to the implementation of use of covered funds;
- An abuse of authority related to the implementation or use of covered funds; or
- As a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issues relating to covered funds.

Any employer receiving Recovery Act funds shall post notice of the rights and remedies as required herein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L.111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.). A form of the notice that meets the requirements of this section is located at the following internet address: [Http://www.recovery.gov/Contact/ReportFraud/Documents/Whistleblower+Poster.pdf](http://www.recovery.gov/Contact/ReportFraud/Documents/Whistleblower+Poster.pdf)

OUTSOURCING OUTSIDE THE USA WITHOUT SPECIFIC PRIOR APPROVAL PROVISION

Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.

FEDERAL, STATE AND LOCAL TAX OBLIGATIONS:

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds

ANTI-DISCRIMINATION AND EQUAL OPPORTUNITY

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

OFFICE OF STATE BUDGET AND MANAGEMENT ACCESS TO RECORDS:

OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.

USE OF RECOVERY FUNDS FOR TRAVEL

Contractor and its subcontractors are specifically prohibited from using Recovery Act funds for travel outside the service area of county in which the project is located. The exceptions are for travel specifically mandated by the Recovery Act or approved by the senior management of the State Energy Office.

THE NATIONAL HISTORIC PRESERVATION ACT (NHPA) – SECTION 106

This project is subject to NHPA for review and compliance.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

This project is subject to NEPA for review and compliance.

HISTORICALLY UNDERUTILIZED BUSINESS

Please check the following:

Is your organization registered with HUB office? Yes _____ No _____

Is your organization a minority contractor, small contractor, physically handicapped contractor, a woman contractor, a disabled business enterprise, or a non-profit work center for the blind and severely disabled?

Yes _____ No _____

POWER OF ATTORNEY

CERTIFICATE OF INSURANCE
(Attach)

CERTIFICATE OF ATTORNEY

I hereby certify that I am the duly appointed attorney for the Owner of the Project and that I have examined the foregoing instrument and Bond, and insurance documents and I have approved the same as being legal and in proper form.

This _____ day of _____, 20_____.

City Attorney



City of Rocky Mount Certification Regarding Debarment and Suspension

Contracts for construction or services shall comply with the provisions of 43 CFR Part 12, Subpart C (Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments). In order to comply with this provision, no contract may be awarded by the grantee (City of Rocky Mount), a subgrantee or contractor of any grantee or subgrantee to any party that has been debarred or suspended under Executive Order 12549. By signing this document, you certify to the best of your knowledge that the company, its principals, and its subcontractors which may be awarded a contract with the City of Rocky Mount:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offence in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally charged by a governmental entity (Federal, State, or local) with commission of any of the offenses in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

BY _____ DATE _____
(Signature of Owner or Authorized Representative)

(Company Name) (Name/Location of Project)

INSTRUCTIONS TO BIDDERS

1. Samples of items, when required, or items that do not have prior approval, must be furnished free of expense, prior to the opening of bids, and if not destroyed, will upon request, be returned at the bidder's expense. Request for the return of samples must be made 10 days following opening of bids. Each individual sample must be labeled with bidder's name and item number.
2. Price should be stated in units of quantity requested on price proposal sheet(s) with packing included.
3. If the items bid upon have a trade name or brand, such trade name or brand must be stated in the bid.
4. Attach complete specifications for any substitution offered, or when amplification is desirable or necessary.
5. If descriptive matter is attached to bid, bidder's name must be on all sheets pertaining to proposals or bids.
6. Where a brand or trade name appears in the specification, it is understood that it refers to that material or its equivalent.
7. Please address and mail your bid as shown below:

**CITY OF ROCKY MOUNT
PURCHASING DEPARTMENT
P.O. DRAWER 1180
ROCKY MOUNT, N.C. 27802**

8. MARK YOUR BID IN THE LOWER LEFT HAND CORNER OF ENVELOPE AS PER THE FOLLOWING SAMPLE.

BID REQUEST NO. : (PUT CRM BID #)
SEALED BIDS ON: (PUT TITLE OF BID)
TO BE OPENED: (PUT DATE, TIME & DAY OR WEEK)

If forwarded other than by mail delivery, bids must be delivered/addressed directly to City of Rocky Mount, Purchasing Department, 331 S. Franklin Street, or Purchasing Conference Room, 4th floor, Municipal Office Building, Rocky Mount, N.C. 27803.

***ALL BIDDERS ARE TO READ AND SIGN THE CITY OF ROCKY MOUNT CONDITIONS FOR
BID AWARD AND RETURN IT WITH THEIR BID PRICE PROPOSAL.
FAILURE TO DO SO MAY RENDER YOUR BID AS NON-RESPONSIVE.**

**CITY OF ROCKY MOUNT
CONDITIONS FOR BID AWARD**

1. All bids and proposals shall be for furnishing apparatus, supplies, materials, equipment and/or work and services in accordance with the applicable plans and specifications prescribed by the City of Rocky Mount from the date shown until the date of opening the proposals, the plans and specifications of the proposed work and/or complete description of the apparatus, supplies, materials, or equipment and/or work and services are and will continue to be on file in the office of the Purchasing Manager of the City of Rocky Mount, N.C. during usual office hours 8:30 A.M. to 5:00 P.M., and available to prospective bidders.
2. No proposal will be considered or accepted unless, at the time of its filing the same shall be accompanied by Cash or a Certified deposit check on some bank or trust company insured by the Federal Deposit Insurance Corporation, in an amount of not less than the five percent (5%) of the total proposal. In lieu of making the cash deposit as above provided, such bidder may file a bond executed by a corporate surety, licensed under the laws of North Carolina to execute such bonds, all bid bonds and deposits being further conditioned under Section 2, G.S. 143-129 H.B. 634.
3. The City reserves the right to evaluate all bids especially where there is a wide range in specifications or to reject any and all bids and proposals, and further specifically reserves the right to make the award and/or awards in the best interest of the City of Rocky Mount.
4. The bidder and/or bidders to whom contract is awarded must comply fully with the requirements of General Statutes, Section 143-129 as amended, including entering into contract and/or Purchase Order and the furnishing of a satisfactory surety bond in the full amount of the contract price to guarantee faithful performance of the contract.
5. Time, in connection with discount offered, will be computed from date of delivery of the supplies or materials on delivery at destination when final inspection and acceptance are at those points or from date correct invoice is received if latter than the date of delivery. Guaranteed maximum price must be shown in all bids.
6. In case of default of the contractor and/or suppliers, the City may procure the articles, or services from other sources and hold the contractor and/or suppliers responsible for any excess cost occasioned thereby.
7. Payment by City due thirty days after delivery in Rocky Mount and inspection unless otherwise specifically provided: subject to any discounts allowed.
8. By mutual consent, between the City of Rocky Mount and the successful bidder and/or bidders, the base contract may be subsequently extended up to 100 per cent (100%) of the dollar value.
9. Positively No Bids considered unless submitted on the proposals furnished by the City of Rocky Mount.
10. All tax imposed upon any article on which you are bidding, shall be shown as a separate item and in no case included with price bid. Failure to comply with these conditions may be considered grounds for rejection. Tax on any item will not be considered in the total cost of the bid for contract award.

11. This proposal shall be irrevocable after the public opening and cannot be withdrawn after the time and said deposit shall be forfeited to the City of Rocky Mount as liquidated damages if this bid is withdrawn after the public opening, or if the undersigned bidder fails to execute formal contract and provide satisfactory surety within ten (10) days after the award. If this bid is not accepted within thirty (30) days after the public opening, it shall be deemed rejected and deposit shall be returned to the undersigned bidder.

12. It is specifically agreed as part of the consideration of the signing of this contract that the parties herein, their agent, officials, employees, or servants will not discriminate in any manner on the basis of race, color, creed, national origin, handicapped status, age, religion or sex with reference to the subject matter of this contract no matter how remote. The parties hereto further agree in all respects to conform with provisions and intent of the City of Rocky Mount, North Carolina.

This provision being incorporated for the benefit of the City of Rocky Mount and its residents may be enforced as set out in said ordinances, enforcement of these provisions shall be by action for specific performance, injunctive relief, or other remedy as by law provided; and this provision shall be construed in such manner as to prevent and eradicate all discrimination based on race, color, creed, national origin, handicapped status, age religion or sex.

This provision shall be binding on the successors and assigns of the parties hereto with reference to the subject matter of this contract.

13. The City reserves the right to award all or any part to one or more bidders.

14. (5%) deposit Enclosed \$_____ see paragraph 2.

15. It is understood that the items in this proposal will be purchased as stated on price proposal sheet. Where there is an estimated quantity being requested, the items will be purchased on an as needed basis.

16. The successful bidder(s) must maintain in stock at all times the items in this contract in sufficient quantities to assure quick delivery on replacement items. The City of Rocky Mount reserves the right to inspect the facilities of each bidder before awarding the contract.

17. Contract or Purchase Order shall be for a one time purchase, or for the period of time noted in the specifications or on the purchase order.

18. The City of Rocky Mount reserves the right to cancel the contract at any given time, by giving the vendor a thirty (30) day written notice.

In compliance with the above request for bids, and subject to all the conditions thereof, the undersigned offers and agrees, if this bid is accepted within 30 days from the date of the opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, and unless otherwise specified, within _____ days, after receipt of order, delivery F.O.B. Rocky Mount, N.C.

Discounts will be allowed for prompt payments as follows:

10 calendar days _____ percent

15 calendar days _____ percent

20 calendar days _____ percent

30 calendar days _____ percent

Bidder: _____

Address: _____

By: _____
Authorized To Sign

Telephone No.: _____

Title: _____

Fax No.: _____

Date: _____