

**NORTH CAROLINA**  
**DURHAM COUNTY**

**CONTRACT for CONSTRUCTION**  
**BETWEEN OWNER AND**  
**CONTRACTOR**

**This Contract for Construction** is made, and entered into this the \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the **COUNTY OF DURHAM**, a political subdivision of the State of North Carolina, (hereinafter “**OWNER**”), and \_\_\_\_\_, EID# \_\_\_\_\_ (hereinafter “**CONTRACTOR**”), whose principal place of business is: \_\_\_\_\_.

The Project: \_\_\_\_\_  
Name and Location: \_\_\_\_\_  
\_\_\_\_\_

The Designer is: \_\_\_\_\_  
\_\_\_\_\_

1. CONTRACT DOCUMENTS. The “Contract Documents” consist of this Contract for Construction, General Conditions, Bid Proposal Package No. \_\_\_\_\_ entitled \_\_\_\_\_, Contractor Bid Proposal dated \_\_\_\_\_, Addenda issued prior to execution of this Agreement and listed below, and any Modifications executed by the parties after execution of this Contract. The Contract Documents form the Contract and are fully a part of the Contract as if attached to this Contract or repeated herein. The Contract represents the entire and integrated agreement between the Owner and Contractor hereto and supersedes any and all prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents and other than Modifications, appears in Article 15, herein.

Owner and Contractor agree that should the Contractor utilize the services of a subcontractor for any Work under this Contract, the subcontractor shall be required to comply with all terms and conditions of this Contract and any and all Contract Documents entered into between the Owner and Contractor and any of its contractors or subcontractors shall so require of their subcontractors.

2. WORK. Contractor shall execute all of the Work described collectively in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

3. DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION.

3.1 This Contract shall commence on the date first written above (hereinafter “Commencement Date”). The Contractor shall notify the Owner in writing not less than five days before commencing the Work.

3.2 The Contractor shall achieve Substantial Completion of the entire Work no later than the time established in the Contract Documents; subject to adjustments of the Contract Time as provided in the Contract Documents. In view of the difficulty of estimating damages to the Owner by reason of the failure of the Contractor to complete the work herein proposed within the time limit herein proposed, or within such further time as same may be extended, as provided for, proposed, Owner

shall be and hereby is authorized to deduct and retain out of the moneys which may be due or become due to Contractor the sum of One Thousand Dollars (\$1,000.00) per day for each and every calendar day that the work may be incomplete beyond the time limit fixed for its completion, or as same may have been extended, which sum per day is hereby agreed upon, fixed and determined by the parties hereto as the ascertained and liquidated damages that the Owner will suffer by reason of such default. The above sum shall be held to include the additional expense to the Owner for loss of interest or investment, for the employment of architects, engineers, inspectors, and other employees, together with their expenses, and all other damages to the Owner by reason of such delay.

4. CONTRACT SUM AND PAYMENT

4.1 Contractor shall receive from Owner a sum not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ ), as full compensation for the provision of construction services provided under this Contract, subject to additions and deductions as provided in the Contract Documents. Owner agrees to pay for services, satisfactorily performed, in accordance with the Contract Documents. Unless otherwise specified, Contractor shall submit an Application for Payment in the manner described in Article 9, of the General Conditions. Payment will be processed promptly upon receipt and approval of the Application by Owner.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

\_\_\_\_\_  
\_\_\_\_\_

4.3 Unit prices, if any, are as follows:

\_\_\_\_\_  
\_\_\_\_\_

5. PROGRESS PAYMENTS. Based upon Applications for Payment submitted to the Designer by the Contractor and Certificates for Payment issued by the Designer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in section 9.3 of the General Conditions.
6. FINAL PAYMENT. Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor and all requirements imposed by Paragraphs 9.3 and 9.11 of the General Conditions have been satisfied except for those requirements set forth in Paragraphs 11.2 and 11.3 of the General Conditions and any other requirements which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Designer; such final payment shall be made by the Owner not more than 30 days after the issuance of the Designer's final Certificate for Payment.
7. INDEMNIFICATION. Contractor shall indemnify and hold harmless the Owner and its officials, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to fees and charges of engineers, attorneys, and other professionals and costs related to court action or arbitration) arising out of or resulting from the performance of this Contract or the actions of the Contractor or its officials, employees, or contractors under this Contract or under the contracts entered into by the Contractor in connection with the work to be performed and as further set forth in section 3.17 of the General Conditions.
8. NOTICES. All notices which may be required by this contract or any rule of law shall be effective

when received by certified mail sent to the following addresses:

FOR: COUNTY OF DURHAM  
PURCHASING DEPARTMENT  
DURHAM COUNTY ADMINISTRATIVE COMPLEX  
4TH FLOOR, 200 EAST MAIN STREET  
DURHAM, NORTH CAROLINA, 27701

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

9. NON-DISCRIMINATION. Contractor shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin, or disability. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, or disability. In the event Contractor is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by Owner, and Contractor may be declared ineligible for further Owner contracts.
10. HEALTH AND SAFETY. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs required by OSHA and all other regulatory agencies while providing services under this contract.
11. NON-ASSIGNMENT. This Contract is not assignable by either party, by operation of law or otherwise.
12. MODIFICATION. This Contract may be modified only by a written agreement executed by both parties hereto.
13. TERMINATION OR SUSPENSION. This Contract may be terminated by the Owner or the Contractor as provided in Article 13 of the General Conditions. The Work may be suspended by the Owner as provided in Paragraph 13.3 of the General Conditions.
14. INSURANCE AND BONDS
  - 14.1 CONTRACTOR'S LIABILITY INSURANCE. Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in North Carolina such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
    - (1) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the work to be performed;
    - (2) claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

- (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- (4) claims for damages insured by usual personal injury liability coverage which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or by another person;
- (5) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- (6) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- (7) claims involving contractual liability insurance applicable to the Contractor's obligations under Article 3 of the General Conditions.

14.2 The insurance required under Paragraph 14.1, shall be written for not less than the limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

14.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. The Certificates and the insurance policies required by this Article 14 shall contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the Owner. If any of the foregoing insurance coverage are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment as required by Paragraph 9.11.2 of the General Conditions. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

14.4 BUILDER'S ALL RISK COVERAGE. Unless otherwise provided the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in North Carolina, Builder's All Risk Coverage, in an amount equal to 100% of the Contract Sum under this Agreement.

14.5 PERFORMANCE BOND AND PAYMENT BOND. The Contractor shall furnish bonds covering the faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or required by North Carolina law.

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

## 15. ENUMERATION OF CONTRACT DOCUMENTS

15.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

- (1) This executed Contract for Construction between Owner and Contractor.
- (2) The General Conditions of the Contract for Construction. Where reference is made in this Contract to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

(3) The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated \_\_\_\_\_, and are as follows:

<u>Document</u>	<u>Title</u>	<u>Pages</u>

(4) The Specifications are those contained in the Project Manual dated as in Paragraph 15.1(3) above, and are as follows:

<u>Section</u>	<u>Title</u>	<u>Pages</u>

(5) The Drawings are as follows, and are dated \_\_\_\_\_, unless a different date is shown below:

<u>Number</u>	<u>Title</u>	<u>Date</u>

(6) The Addenda, if any, are as follows:

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

(7) Other documents, if any, forming part of the Contract Documents are as follows:

Invitation to Bid.  
Instruction to Bidders

15.2 This Contract and the Contract Documents described herein sets forth the entire agreement between the parties and supersedes any and all other agreements on this subject between the parties.

15.3 **E-VERIFY.** As a condition of payment for services rendered under this agreement, Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Contractor provides the services to the Owner utilizing a subcontractor, Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes as well. Contractor shall verify, by affidavit, compliance of the terms of this section

upon request by the Owner.

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies of which one is to be delivered to the Contractor, one to the Designer for use in the administration of the Contract, and the remainder to the Owner.

COUNTY OF DURHAM

By \_\_\_\_\_

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

\_\_\_\_\_  
Durham County Chief Financial Officer

CONTRACTOR

ATTEST:

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

Secretary

Print Name/Title: \_\_\_\_\_

\_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, a Notary Public in and for the aforesaid County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that he is of \_\_\_\_\_, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_.

Witness my hand and notarial seal this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_ (SEAL)