

SECTION 002110 - INSTRUCTION TO BIDDERS

PART 1 - GENERAL

1.1 INVITATION TO BID

- A. In accordance with the Advertisement for Bids, proposals will be received by the Owner for the performance of the project designated in the Advertisement for Bids and further described in the Instructions to Bidders and Bid Specifications. Bids shall cover all costs of any nature, including those which are incidental to and arise from the work. In explanation but not in limitation thereof, these costs shall include the costs of all work, labor, materials, equipment, transportation and cost of anything else necessary to perform and complete the project in the manner and within the time required by the specifications, all incidental expenses in connection therewith, all costs on account of loss due to damage or destruction of the project, and any additional expenses for unforeseen difficulties encountered, for settlement of damages and for replacement of defective work and materials. Conditions, limitations or provisions attached by the Bidder to the Proposal shall be cause for its rejection.
- B. Prior to submitting a bid, all bidders shall become familiar with the Advertisement for Bids, Instructions to Bidders, General and Supplementary Conditions, Specifications, Drawings, Addenda and other bidding documents. It shall also be the responsibility of every bidder to investigate the site of the project and make such examination as necessary to satisfy itself regarding the character and amount of work involved. All Bidders shall determine that necessary labor and equipment can be secured and that the materials it proposes to use will comply with the requirements contained in the specifications and can be obtained by the Bidder in the quantities and at the time required. Appointments for inspection of the site can be arranged by contacting the Edward Ostroff, Director of Buildings and Grounds at (732) 833-4653. By submitting a bid, the Bidder agrees and warrants that it has examined the specifications, drawings, addenda, and bulletins required in any part of the work a given result to be produced, that the specifications, drawings, addenda, and bulletins are adequate and the required result can be produced under the specifications, drawings, addenda, and bulletins. No claim for any extra will be allowed because of alleged impossibilities in the production of the results specified or because of the unintentional errors or conflicts in the drawings, specifications, addenda and bulletins.
- C. The Project Manual, Drawings, and Addenda shall be considered as a whole and shall not be separated during the bidding or construction period. Division of Project Manual into “divisions” and “sections” is solely for organization and is not intended to define trade responsibilities unless specifically stated. Every Contractor shall be held responsible for reviewing and understanding the relationship of its work by becoming thoroughly familiar with the Drawings, Project Manual, and Addenda of the contract. Every Contractor shall be responsible for its own work and, if it divides the Drawings, Project Manual, and Addenda for Subcontractors or material suppliers, it does so at its own risk.
- D. Every bidder shall certify that it owns, leases, or controls all the necessary equipment required by the Specifications. If the bidder is not the actual owner or lessee of any such equipment, it shall submit a certificate stating the source from which the equipment will be obtained and shall

obtain a certificate from the owner and person in control of the equipment, granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

- E. Only manufactured and farm products of the United States where available shall be used in the performance of the work required to complete the project.
- F. Quality of Products/Goods: All products and goods used in the project shall be new (unless specifically indicated) and covered by applicable manufacturer's warranty.
- G. Wherever in the Contract Documents reference is made to "the Contract", it shall mean the contract entered into through the acceptance of the Bidder's Proposal enumerated hereinafter and all applicable provisions in the Project Manual shall govern the Contract with equal force.
- H. Bidders are cautioned to carefully read the complete Drawings and Project Manual to acquaint themselves with requirements therein necessitating installation work by one Contractor of materials or equipment furnished by another Contractor required to complete the entire Project. Bidders should also note all cases where it is specified that labor, materials or both are to be omitted by one Contractor and are to be provided by another Contractor identified therein. It is understood that the various Bidders have included such work in their bids, even though the same is not specifically mentioned within the Divisions and Sections of the Specifications upon which they are bidding.
- I. Bidding shall be in conformance with New Jersey Local Agency Procurement Laws and with the applicable requirements of N.J.S.A. 18A:18A-1 et seq., the "Public School Contracts Law".

1.2 DEFINITIONS

- A. Whenever in the Project Manual the following terms, or pronouns in place of them are used, their intent and meaning shall be interpreted as follows:
- B. Contract Documents: Those documents which memorialize the parties' agreement with respect to their respective obligations in connection with Project, including the complete Working Drawings, detailed Project Manual with all Addenda and Supplementary Agreements that may be entered into, the Instructions to Bidders, Bid Proposal, Executed Contract, and Contract Bond. All of the aforementioned documents are to be treated as one instrument whether or not set forth at length in the Form of Contract.
- C. Drawings: Drawings or reproductions thereof furnished by the Architect pertaining to the Project.
- D. Project: The term "Project" as used in the Contract Documents refers to:

New Transportation Building
Jackson Liberty High School
125 North Hope Chapel Road
Jackson, New Jersey 08527

- E. Owner: The term “Owner” as used in the Contract Documents refers to:

Jackson Township School District
151 Don Connor Boulevard
Jackson, New Jersey 08527
Tel: (732) 833-4600

- F. Architect: The term “Architect” as used in the Contract Documents refers to:

The Spiegle Architectural Group
1395 Yardville Hamilton Square Road, Suite 2A
Hamilton, New Jersey 08691
Tel: (866) 974-7666, Fax: (609) 394-2274

1.3 OBLIGATION OF THE BIDDER

- A. At the time of the opening of the bids, each bidder will be presumed to have inspected the site and to have read and become thoroughly familiar with the Notice for Bids, Instructions to Bidders, Bid Specifications and other bidding documents. The failure or omission of any bidder to receive or examine any form, instrument or document or to visit the site and acquaint himself with the conditions there existing, shall not relieve the bidder from its obligation to furnish all the necessary labor, materials and other conditions and requirements of the Contract Documents to complete the project at the bid price. A claim of mistake or omission will likewise not excuse a bidder from any obligation under its bid. The submission of a bid will be considered conclusive evidence that the bidder has made such an examination.
- B. The Owner reserves the right to hire an Architect to act as its representative for the purpose of administering the contract. The Contractor is obligated to follow any directive or order that the Architect may issue as if the directive or order were issued by the Owner.

1.4 DRAWINGS AND PROJECT MANUAL

- A. The Drawings and Project Manual are to provide for the complete construction of the Project and are intended to complement and supplement each other. Any work required by either of them and not by the other shall be performed as if denoted both ways. Any work required which is not denoted in the Project Manual or on the Drawings because of an obvious omission but which is nevertheless necessary for the proper performance of the Project, such work shall be performed as fully as if it were described and delineated.

1.5 INTERPRETATIONS

- A. No oral interpretation will be made to any Bidders as to the meaning of the Drawings and Project Manual. Should any questions arise as to the true meaning of any item noted on the Drawings, Specifications, or other Contract Documents, the Bidder will immediately forward a request in writing to the Architect for interpretation as soon as such question arises on Form 009215 Request for Information provided at the end of Division “00” Bidding and Contract

Requirements. Interpretations will be made in the form of Addenda and issued to all Bidders receiving the Drawings and Project Manual. All such Addenda shall become part of the Contract Documents. In order to be given consideration and timely issuance of addenda, if any, written requests for interpretation are requested at least ten (10) business days, Saturdays, Sundays and Holidays excepted prior to the date fixed for the opening of bids. Notice of revisions or addenda to the advertisement or bid specifications will be sent in writing, via certified mail, certified facsimile transmission or delivery service to all persons who have picked up a copy of the bidding documents. Notice shall be provided no later than seven (7) days, Saturday, Sundays or holidays excepted, prior to the date for acceptance of bids to any person who has submitted a bid or who received a bid package. It shall be the responsibility of the Bidder to ascertain that he has received all amendments, revisions and clarifications prior to submitting his bid. Failure of a Bidder to receive notice of any amendment, revision or clarification when good faith notice is sent or delivered shall not be considered failure by the Owner to provide notice and shall not relieve a bidder from any obligation under its bid. All amendments, revisions and clarifications shall become part of the contract documents, and shall be acknowledged by the bidder in the bid. In the event the Owner is unable to provide notice within the time required, or otherwise fails to provide notices, the Owner shall not accept bids and shall re-advertise for bids. The Architect's interpretations or corrections thereof shall be final.

1.6 ASSIGNMENT / SUBCONTRACT

- A. The Bidder to whom the contract is awarded (hereinafter referred to as "Contractor") may not assign this contract to any person, partnership or corporation nor may it subcontract any part of the work required to be performed under the contract without obtaining the prior written approval of the Owner.
- B. Any assignee or successor in interest to the contract who is approved by the Owner shall be bound by the terms of this contract.
- C. Any subcontractor approved by the Owner shall be bound by the terms of this contract.

1.7 CLASSIFICATION OF BIDDERS

- A. Contractors proposing to submit bids for contracts exceeding \$20,000.00 are required to be pre-qualified by the New Jersey Department of Treasury, Division of Property Management and Construction (DPMC) in accordance with N.J.S.A. 18A:18A-26 to 18A:18A-33 and N.J.S.A. 52:35-1.
- B. Pursuant to N.J.S.A. 18A:18A-27 et seq, all bidders on any contract for public work in which the entire cost of the project exceeds \$20,000.00 must be prequalified by the Department of Treasury, Division of Building and Construction as to character and amount of public work on which they may submit bids. No person shall be qualified to bid on any public work contract with the Owner if it has not submitted a statement to the Department of Treasury, Division of Building and Construction which fully discloses the bidder's financial ability, the adequacy of its plant and equipment, its organization and prior experience, and such other pertinent and material facts which may impact on the bidder's performance on the Project within a period of one year preceding the date of opening of the bids for such contract.

- C. Every prequalified bidder must submit with its proposal, a notarized affidavit setting forth the type of work and the amount of work for which it has been qualified (DPMC Notice of Classification), that there has been no material adverse change in its qualification information (Certification of No Material Adverse Change in Status), the total amount of uncompleted work on contract at the time (DPMC 701), and the date of the classification. Any bid not including this affidavit shall be rejected as being non-responsive to the bid requirements. A form affidavit is included as part of the bidding documents.
- D. All bidders shall furnish satisfactory evidence that it and its subcontractors have sufficient means and experience in the type of work to complete the project in accordance with the bid specifications. A subcontractor listing and bidder's personnel and experience sheet shall be submitted to the owner as part of the bidding documents. Where the bidder intends to subcontract any portion of the work to one or more of the major trades for (General Construction, Structural Steel; Plumbing; Heating, Ventilating and Air-Conditioning; and/or Electrical) and for all specialty trades for which classification is required, the subcontractor(s) shall be classified to perform the work and the bidder shall submit the requisite documentation pertaining to the subcontractor(s) in accordance with paragraph B above. Additionally, all subcontractors named on the bid form must also submit a signed sworn contractor certification and all documents referenced therein, as well as any applicable trade license.
- E. All Bidders shall complete the Statement of Bidders Qualifications and attached forms. The Owner may make such additional investigations as it deems necessary to determine the ability, competence and financial responsibility of the bidder to perform their work. The Owner reserves the right to reject any bid if the information fails to establish to the Owner's satisfaction that the bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.
- F. For every contract for public work that exceeds \$20,000.00, the Owner shall, upon completion thereof, report to the Department of Treasury, Division of Property Management and Construction as to the Contractor's performance and shall also furnish such report from time to time during performance if the Contractor is then in default.

1.8 PUBLIC WORKS CONTRACTOR REGISTRATION ACT (P.L. 1999 c. 238)

- A. All contractors and listed subcontractors as defined in N.J.S.A. 34:11-56.48 et seq. submitting a bid for this project shall be registered with the Department of Labor in accordance with N.J.S.A. 34:11-56.48 et seq. All bidders are requested to submit a copy of the Registration Certificate of the bidder and all subcontractors with the bid.

1.9 STOCKHOLDER OR PARTNERSHIP DISCLOSURE STATEMENT

- A. Pursuant to N.J.S.A. 52:25-24.2, all forms of corporations and partnerships (including limited partnerships, limited liability corporations, limited liability partnerships and subchapter S corporations) shall submit a statement with its bid which sets forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock or of all individual partners in the partnership who own a 10% or greater interest therein. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock or the individual partners owning 10% or greater interest in

that partnership shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder and individual partner exceeding the 10% ownership criteria has been listed.

- B. Any bidder whose stockholders or partners own less than ten percent (10%) of the stock shall certify such fact to the Owner.
- C. A form affidavit is included as part of the bidding documents and must be completed by the Bidder.

1.10 LAW AGAINST DISCRIMINATION

- A. The Bidder (Contractor) that is awarded a Contract, and its subcontractors, agrees to comply with the Anti-Discrimination provisions of N.J.S.A. 10:2-1 et seq.; the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., N.J.A.C. 17:27-1.1 et seq. set forth at length in Exhibit B attached hereto and made a part hereof and incorporated herein by reference. A complete copy of the regulations, N.J.A.C. 17:27-1.1 et seq., are available upon request or online at http://www.state.nj.us/treasury/contract_compliance/pdf/njac_17_27_ac.pdf. The Bidder (Contractor) that is awarded a Contract, and its subcontractors, further agree to comply with N.J.A.C. 6A:7-1.8.

1.11 QUALITY OF PRODUCTS/GOODS USED

- A. In accordance with N.J.S.A. 18A:18A-20, "American goods and products to be used wherever possible", only manufactured and farm products of the United States, wherever available, shall be used in this project.
- B. All products and goods used in the project shall be new and covered by the applicable manufacturer's warranty. Where a brand name is specified in the specifications, the Bidder may use an equivalent brand, provided the procedures set forth in the specifications are followed. The Architect and Owner shall approve such substitution.
- C. Quality Control: During the term of this project, the contractor will have in place a suitable quality control and quality assurance program and an appropriate safety and health plan.
- D. Discrimination on the basis of disability for the purchase of goods and services is prohibited. Bidders are expected to have read and understand the language of the Americans with Disabilities Act and are required to agree that the provisions of Title II of the Act and are made a part of this Contract. The Contractor is obligated to comply with the Americans with Disabilities Act of 1990 (ADA) including the changes made by the ADA Amendments Act of 2008 (P.L. Law 110-325) effective January 1, 2009.

1.12 BUSINESS REGISTRATION CERTIFICATE

- A. Pursuant to N.J.S.A. 52:32-44 and/or P.L. 2009, c. 315, it is requested that all bids be accompanied by a New Jersey Business Registration Certificate issued by the New Jersey

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COMMISSION NO. 18K040

Department of Treasury, Division of Revenue. N.J.S.A. 52:32-44 imposes the following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract. Failure to submit the Business Registration Certificate prior to award of contract will result in the rejection of the Bid.

- B. No contract with a subcontractor shall be entered into until the subcontractor provides a copy of a valid business registration certificate to the contractor. The contractor shall provide copies of a current Business Registration Certificate for each subcontractor immediately upon entering into each subcontract. The contractor shall provide written notice to its subcontractors and suppliers of the responsibility to submit proof of business registration to the contractor. The requirement of proof of business registration extends down through all levels (tiers) of the project. Subcontractors through all tiers of a project must provide written notice to their subcontractors and suppliers to submit proof of business registration and subcontractors shall collect such proofs of business registration and maintain them on file;
- C. The contractor shall maintain and submit a current, updated list of subcontractors and their current Business Registration Certificate as a continuing obligation under this contract. Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.
- D. For the term of this contract, the contractor and each of its affiliates and each subcontractor and supplier and each of its affiliates as defined in N.J.S.A. 52:32-44(g) (3) shall collect and remit and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.
- E. A contractor, subcontractor or supplier that fails to provide a copy of a business registration as required pursuant to N.J.S.A. 52:32-44 et seq., or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25.00 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency. The contractor shall indemnify and hold harmless the Owner from and against any and all fines, taxes, penalties, interest, claims, losses, costs and expenses of any kind arising out of or resulting from or in connection with the contractor's failure to comply with N.J.S.A. 52:32-44 as amended from time to time. Information on the law and its requirements are available by calling (609) 292-9292.

1.13 NON-COLLUSION

- A. No official or employee of the Owner who is authorized in his or her official capacity to negotiate, make, accept or approve or to take part in such decision regarding a contract in connection with a school facilities project shall have any financial or other personal interest in any such contract. The Owner and its officers and employees shall comply with the School Ethics Law, N.J.S.A. 18A:12-21 et seq. and N.J.A.C. 6A:28.

- B. No bidder shall directly or indirectly enter into any agreement, participate in any collusion or otherwise take any action in restraint of free, competitive bidding in connection with this project.
- C. A form affidavit of non-collusion is included as part of the bidding documents and must be completed by the bidder.

1.14 PREVAILING WAGE RATE

- A. Each Contractor and subcontractor is required:
 - 1. To comply with the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56-25 et seq., and pay all workmen and/or subcontractors performing services in connection with the project not less than the prevailing rate of wages as determined by the State Department of Labor and Workforce Development, whereby said prevailing rate of wages are enumerated in the list of prevailing wage rates included as part of the Project Specifications and Contract Documents, are on file in the owner's office and/or the architect's office and are made a part hereof and incorporated herein by reference.
 - 2. To contact the State Department of Labor and Workforce Development to verify the prevailing wage rates applicable to the Project.
 - 3. To furnish the owner with an affidavit stating that all workmen have been paid in accordance with the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56 et seq.
 - 4. Upon request, file verified written statements with the owner certifying the amounts then due and owing to any and all workmen for wages due on account of the work and the names of the persons whose wages are unpaid and the amount due to each.
 - 5. To submit weekly payroll forms in full compliance with the Prevailing Wage Act.
 - 6. To keep an accurate record showing the name, craft or trade and actual hourly rate of wages paid to each workman employed by him in connection with the project. Records shall be preserved for two (2) years from the date of payment.
 - 7. To post the prevailing wage rates for each craft and classification involved in the work, including the effective date of any changes thereof, in prominent and easily accessible places at the site of the project and at such place or places as are used to pay workmen their wages.
- B. In the event that it is found that anyone employed by the Contractor or any Subcontractor has been paid a rate of wages less than the prevailing wage required to be paid by such contract, the owner may terminate the Contractor's right to proceed with the work or such part of the work as to which there has been a failure to pay required wages and to prosecute the work to completion or otherwise. The Contractor and his Sureties shall be liable to the Owner for any excess costs occasioned thereby.

1.15 C.271 POLITICAL CONTRIBUTION DISCLOSURE FORM

- A. The Contractor is advised of the responsibility to file an Annual Disclosure Statement on Political Contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, s.3) if the Contractor receives contracts in excess of \$50,000.00 from public entities in a calendar year. It is the Contractor's responsibility to

determine if filing is necessary. Additional information on this requirement is available from ELEC at (888) 313-3532 or at www.elec.state.nj.us.

- B. Pursuant to N.J.A.C. 6A:23A-6.3, Bidders shall provide a list of political contributions on the attached forms with their bids. The Board may not award a contract over \$17,500.00 to a bidder that has made a reportable contribution to a member of the district board of education during the preceding one year period.

1.16 PREPARATION OF BIDS

- A. Bidders shall comply with the requirements contained in the Notice for Bids, Instructions to Bidders, Bid Specifications, and other bidding documents.
- B. Bids must be submitted on the Form of Proposal furnished by the Owner. Where the bidder is a corporation or a partnership, the person submitting the bid must certify that he is duly authorized to submit a bid on behalf of the corporation or partnership. The corporate seal should be affixed to the bid. Alternative bids will not be accepted unless otherwise authorized in the bidding documents. Where alternates are specified, the bidder shall indicate the amount of the alternate(s) to be added to or deducted from the base bid. If an alternate item will not result in an increase or decrease in the base bid, the bidder shall clearly so indicate by stating either “zero (0)” or “no change”. Failure to bid an alternate, where specified, by leaving an alternate amount blank or stating “no bid” shall be considered a material defect, resulting in the rejection of bids. No conditions, limitations or provision may be placed on a bid.
- C. Bids shall be enclosed in a sealed opaque envelope with the name and post office address of the bidder and the name of the project and the contract being bid marked on the front of the envelope. Telegraph, telecopy, email, or facsimile of bids will not be considered.
- D. All sealed bids must be submitted no later than the “Bid Opening Date and Time” as stated in the Notice for Bids or as changed by addendum. Any bid not received by the date and time set forth in the Notice for Bids/Addendum, will not be considered by the Owner. Bids shall be sealed in an envelope and shall bear the name and address of the Bidder and shall be endorsed “Sealed Bid” – and include the name of the project.
- E. A bidder may withdraw its bid at any time prior to the scheduled time for opening bids. No bid may however, be withdrawn for a period of sixty (60) days from the opening of the bids. The Owner reserves the right to reject any or all bids and waive any informality in the bidding process in accordance with the law if it is in the best interest of the Owner. The Owner further reserves the right to reject any or all bids and not award a Contract for any portion of the Project if the Owner has not obtained the requisite approval for the project or any portion thereof from the appropriate state agency. Any agreement entered into by the Owner for any portion of the Project is expressly conditioned upon the Owner obtaining the requisite approval for the Project or any portion thereof. The Owner reserves the right to terminate the agreement if it has not obtained the requisite approval for the Project or any portion thereof from the appropriate state agency. No bid shall be deemed accepted until the adoption of a formal resolution by the Owner. Contract(s) to be awarded will be awarded to the lowest responsible bidder whose bid is responsive in all material respects to the bid requirements.

- F. Proposals shall be submitted in triplicate on the Form of Proposal furnished by the Architect properly filled out in the manner designated and duly executed, including Affidavits. Proposal Forms shall be filled in, with ink or typewritten, in both words and figures. In case of discrepancy, the amount described in words shall govern. Proposal packages shall contain at least one completed original, the others may be copies of the original.

1.17 BID GUARANTEE

- A. **Every Bid must be accompanied by a Bid Guarantee** in the form of a Certified Check, Cashier's Check, or Bid Bond (together with a Consent of Surety) drawn to the order of the "Owner" for the amount of Ten Percent (10%) of the bid (Base Bid or Base Bid with Alternate Bid(s), whichever is greater), but not in excess of \$20,000." Bond shall be furnished by a surety company authorized to do business in the State of New Jersey.
- B. The ten percent (10%) security shall be forfeited if bidder fails to execute a contract with the Owner and furnish the Owner with a satisfactory performance/labor and materials bond and the required certificates of insurance within ten (10) days after the contract is awarded. In the event the bidder defaults by failing to execute the contract or to provide all guarantees, insurance and other items required, the funds represented by such bidder's bid guarantee shall be released to the Owner and become and remain the property of the Owner. Delivery of the bid guarantee constitutes agreement of the bidder and the surety and any other entity that issued the bid, that such amount shall be released to the Owner in the event of such default. In the event of default and subsequent award of the contract to another bidder, the bidder shall be liable for the difference between the amount of his bid and the amount for which the Owner is obligated to pay on an award to another bidder, less the ten percent (10%) security.

1.18 CONTRACT BONDS

- A. Consent of Surety: Pursuant to N.J.S.A. 18A:18A-25, bids shall be accompanied by a Consent of Surety assuring that satisfactory arrangements have been made between the Surety and the Bidder, by which the Surety agrees to furnish the Bidder with a Performance Bond, and a Payment Bond, each in the stated amount of one hundred percent of the Contract Sum. The Consent of Surety shall be executed by an approved Surety Company authorized to do business in the State of New Jersey.
- B. Each Bidder to whom Contracts have been awarded shall furnish and deliver within ten (10) days after issuance of written "Letter of Intent" or date of "Notice of Award", a Performance and a Payment Bond in the form as bound herewith. The Performance and Payment Bonds shall be in the amount of one hundred percent (100%) of the awarded contract amount. The surety on the Performance and Payment Bonds shall be a surety company and having a bond rating as noted in the Supplementary Conditions, paragraph 11.1.4 that are both satisfactory to the Owner and authorized to do business in the State of New Jersey. The bonds shall comply with the requirements of New Jersey law, specifically, N.J.S.A. 2A:44-143 et seq., and shall be in a form acceptable to the Owner's Attorney. The Performance Bond and Payment Bonds shall be maintained in full force and effect until the Owner is satisfied that all unpaid claims against the bidder have been resolved.

- C. Prior to the start of the guarantee period and before final payment is made, the Bidder who is awarded a Contract shall provide the Owner with a Maintenance Bond, together with power of attorney, in the amount of the contract price to insure the replacement or repair of defective materials or workmanship.
- D. The cost of Bonds shall be paid for by the Contractor.

1.19 POWER OF ATTORNEY

- A. Attorneys-in-fact who sign Bid Bonds, Contract Bonds, and Consent of Surety must accompany with each bond or consent of surety, a certified and effectively dated copy of their power of attorney.

1.20 SALES TAX

- A. The Owner is exempt under the provisions of the New Jersey Sales and Use Tax Act and are not required to pay sales tax. Bidders will be expected to comply with the provisions of the Act and rules and regulations promulgated pursuant thereto to qualify them for exemptions with reference to any and all labor, service and materials supplied to or furnished in connection with the work to be performed.

1.21 AWARD OF CONTRACTS

- A. The Owner reserves the right to reject any or all bids pursuant to the Public School Contract Laws, or to waive informality in the bidding if it is in its best interest to do so. The Owner reserves the right to reject the Bid of any Bidder who in the judgment of the Owner, and in accordance with the law, is not in position to perform the Contract. The Owner reserves the right to reject the Bid of any Bidder with whom the Owner, or any other school district in the State of New Jersey, has had a prior negative experience.
- B. The lowest responsible bidder(s) shall be determined in accordance with statute by comparing the lowest responsible contract bids. The Owner shall have the right to determine which alternates, if any, shall be included in the final determination. The add or deduct amount of any alternates selected by the Owner shall be included in a consistent manner in all bid tabulations.
- C. The contract shall be signed by the Contracting party and returned to the Owner within ten (10) days after the making of the award, and the contract shall be signed by the owner within twenty one (21) days after the making of the award; provided however, that all parties to the contract may agree to extend the limit set forth in the specifications beyond the limits required.
- D. All bid guarantees will be returned, upon request, within ten (10) business days after the bids have been opened. The bid guarantees of the three lowest bidders shall, however, be retained until either: (1) three (3) days after the contract is awarded and signed and the bidder's performance/labor and materials bond and insurance certificates are approved by the Owner, or (2) all bids are rejected by the Owner.

- E. If the lowest responsible bidder is not a resident of the State of New Jersey, then the bidders shall designate a proper agent in the State upon whom process may be served as a condition precedent for the awarding of the contract. If the lowest responsible bidder is a foreign corporation (incorporated outside the State of New Jersey), then the awarding of the contract and payment of consideration thereunder is conditioned upon the bidder filing a Certificate of Authority to transact business in the State of New Jersey with its bid complying with the provisions of N.J.S.A. 14A:13-1 et seq.
- F. Upon notice of award of a construction contract, the owner will provide the contractor with Form AA-201, Initial Project Workforce Report. The contractor shall after notification of award, but prior to signing a construction contract, properly complete and submit an Initial Project Workforce Report, Form AA-201. Proper completion and submission of this report shall constitute evidence of the contractor's compliance with the regulations of Affirmative Action. Failure to submit this form may result in the contract being terminated. The contractor also agrees to submit a copy of the Monthly Project Workforce Report, Form AA-202 once a month thereafter for the duration of the contract to the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts and the Public Agency Compliance Officer. The Owner is required to retain the Affirmative Action evidence on file for review by the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts.
- G. The contractor must submit a properly completed Initial Project Workforce Report, Form AA-201. The completed form AA-201 must be submitted by the third (3rd) calendar day after notification of award. If a construction contractor does not submit Form AA-201 within the required time period, the Owner may extend the time period to the fourteenth (14th) calendar day. If by the fourteenth (14th) calendar day the Contractor does not submit the form, the Owner must declare the Contractor is non-responsive and award the contract to the next lowest responsible bidder or terminate the contract.

1.22 RECEIPTED BILLS FOR MATERIALS, ETC.

- A. It is hereby understood and agreed that no payments after the first payment shall be made by the Owner to any Contractor for materials delivered and accepted during any month covered by this contract or any work done or labor furnished during the same period, unless and until receipts and any and all other vouchers showing payment by the Contractor for materials and labor, including payments to subcontractor from the preceding payment to Contractor on the same basis set forth in the Certificate for Payment, having been filed with the Owner and annexed to the Certificate covering said payment applied for; anything to the contrary in any of the Contract Documents referred to herein notwithstanding.
- B. It is further agreed and understood that the Contractor will require all subcontractors within thirty (30) days after any payment is made to subcontractors to submit sufficient proof of payment, covering both labor and material men so that the Contractor is satisfied that no stop notices can be filed against him for any money due the subcontractor or their labor or material men.

1.23 RELEASE OF LIENS

- A. Neither the final payment nor any part of the retained percentage shall become due until the Contractor delivers to the Owner a complete Release of all Liens arising out of this Contract and an affidavit that so far as he has knowledge or information, the releases include all labor and material for which a lien could be filed, but the Contractor may, if any subcontractor refuses to furnish a release in full, furnish a bond satisfactory to the Owner, to indemnify him against any liens. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including all costs and reasonable attorney's fees.

1.24 PROGRESS PAYMENTS

- A. The Owner reserves the right to withhold on account of subsequently discovered evidence, the whole or part of any monthly payment to such extent as may be necessary to protect against loss on account of defective work not remedied or any form of payment claims against the Contractor that may subsequently have accrued. The Owner shall withhold the retainage as prescribed N.J.S.A. 18A:18A-40 et seq. and N.J.A.C. 19:30-3.5(a)(1).

1.25 FINAL ACCEPTANCE

- A. The final acceptance shall not be binding or conclusive upon the Owner should it subsequently find that the Contractor has supplied inferior material or workmanship or has departed from the terms and conditions of its contract. Should such a condition appear the Owner shall have the right, notwithstanding, final acceptance and payment to cause the work to be properly done in accordance with the drawings and specifications at the cost and expense of the Contractor.

1.26 FORM OF AGREEMENT

- A. The contract shall be comprised of the Notice to Bidders, Instructions to Bidders, Bid Specifications, any amendments and clarifications, diagrams, the bidding documents, Standard Form of Agreement between Owner and Contractor, AIA Document A101-2017, as revised by the Owner, General Conditions of the Contract for Construction, AIA Document A201-2017 edition, as revised by the Owner, all supplementary and additional conditions of the Contract and any addenda thereto. The bidder to whom the contract is awarded shall, within ten (10) days from receipt of the Agreement between Owner and Contractor from the Owner, sign and return the contract to the Owner.

1.27 TIME FOR COMPLETION/LIQUIDATED DAMAGES

- A. Since time is of the essence and actual damages suffered by the Owner are incapable of precise calculation, the contractor agrees that the amount set forth in the supplementary conditions is a fair and reasonable method of measuring the damages suffered by the Owner for each calendar day the project is delayed.
- B. In the event the project is totally not completed and the building ready for occupancy/re-occupancy on the date specified in the contract documents, the Contractor shall pay the Owner

the sum stated in the Supplementary Conditions, article 8.4.1 Time of Completion – Delay – Liquidated Damages as liquidated damages, not as a penalty, for each calendar day that the project is delayed.

- C. The imposition of liquidated damages shall not serve as a bar to the Owner’s recovery of actual damages.

1.28 PAYMENT SCHEDULE

- A. Upon the presentation of a duly executed voucher, the contract amount shall be paid within thirty (30) days of final completion of the project, including the submission of an application for payment approved by the Architect, all closeout documents, training sessions, and the production of the maintenance bond, manufacturer's warranty and release of lien.

1.29 WARRANTY

- A. In addition to the warranties set forth in the General Conditions contained herein, the Bidder warrants that the services to be rendered to the Owner shall be furnished in a workmanlike manner and in accordance with all applicable federal and state statutory requirements and administrative regulations.

1.30 INDEMNITY AND HOLD HARMLESS AGREEMENT

- A. To the fullest extent permitted by law, the successful bidder (the “Contractor”) shall indemnify, protect, defend and save harmless the Owner, the Architect, Engineers (if any), Construction Manager (if any), their respective agents, officers, employees, and servants from any and all claims, demands, suits, damages, costs and expenses, including reasonable attorneys’ fees, whether or not caused, in part by any party indemnified hereunder, arising out of, or in any way related to the Project, the performance of Contractor’s agreement with the Owner that may arise out of or result from the acts or omissions of the Contractor in performing the agreement or the conditions created thereby as more particularly set forth in Article 3.18 of AIA Document A201 General Conditions of the Contract for Construction.
- B. These provisions shall survive the Expiration or Termination of this Agreement.

END OF SECTION 002110.

DOCUMENT 003132 - GEOTECHNICAL DATA

1.1 GEOTECHNICAL DATA

- A. This Document with its referenced attachments is part of the Procurement and Contracting Requirements for Project. They provide Owner's information for Bidders' convenience and are intended to supplement rather than serve in lieu of Bidders' own investigations. They are made available for Bidders' convenience and information, but are not a warranty of existing conditions. This Document and its attachments are not part of the Contract Documents.
- B. A geotechnical investigation report for Project, prepared by Underwood Engineering, dated September 18, 2018, is available for viewing as appended to this Document.
- C. Soil-boring data for Project basin, obtained by Underwood Engineering, dated September 24, 2018, is available for viewing as appended to this Document.

END OF DOCUMENT 003132