

ADDENDUM NUMBER: ONE

PROJECT: High School Exterior improvements – Phase 1
Johnston County Public Schools
601-A West Market Street
Smithfield, North Carolina 27577

PROJECT NO: 23028

DATE: October 10, 2023

OWNER: Johnston County Schools Facilities Services
601-A West Market Street
Smithfield, North Carolina 27577

ARCHITECT: Oakley Collier Architects, P.A.
109 Candlewood Road
Rocky Mount, North Carolina 27804
(252) 937-2500

PREVIOUSLY ISSUED: None

TO ALL CONTRACTORS:

This Addendum is hereby made a part of the Contract Documents to the same extent as if originally included therein. This Addendum must be acknowledged on the Form of Proposal and shall be placed with the Contract Documents.

Drawings and Project Manual dated September 28, 2023, for this project are hereby modified, corrected, or supplemented as follows:

General

Item 1 Addition **Pre-Bid Meeting Minutes**
The attached October 04, 2023, Pre-Bid meeting minutes and Pre-Bid sign in sheet are added in their entirety.

Specifications

Item 1 Addition **Form of Proposal –**
Replace the Form of Proposal with the attached Form of Proposal in its entirety.

Item 2 Modify

Supplementary General Conditions

Article 8 – TIME; subparagraph 8.2.4:

Modify the dates listed to the following dates:

Notice of Intent to Award – November 2023

Return of Owner Contractor Agreement by Contractor – December 2023

Notice to Proceed – December 2023

Substantial Completion – April 2024

Completion of all Commissioning – May 2024

Final Completion – April 2024

Contract Construction Duration – 120 Days

Item 3 Addition

Contractor Agreement

Replace the Construction Agreement (AIA Document A101-2017) with the attached Johnston County Board of Education Standard Contractor Agreement in its entirety.

End of Addendum

Pre-Bid Meeting

High School Exterior Improvements – Phase 1 Johnston County Public Schools

Architect's Project #: 23028
Date: October 04, 2023
Time: 1:00 PM
Place: Johnston County Schools Facilities Services
601-A West Market Street
Smithfield, NC 27577

Meeting Minutes

1. The Architect of Record, Ann Collier, opened the meeting.
2. Sign-In sheets were distributed.
3. Introduction of JCPS (Owner) Reps:
 - a. Brooks Moore, Chief of Facilities & Construction
 - b. Matt Hobgood, Project Manager
4. Introduction of Design Team:
 - a. Architect – Oakley Collier
 - i. Ann Collier (AOR), Joe Klimek (PA), Andrew Glover (PM)
5. General review of project by the design team:

Architectural / Site:

 - a. The project includes the construction of various items (i.e., concrete sidewalks & ramps, handicapped parking spaces, curb ramps, bleacher seating, asphalt paving, etc.) required to implement ADA exterior upgrades for the following four (4) high schools in Johnston County:
 - i. North Johnston High School
 - ii. Princeton High School
 - iii. Smithfield-Selma High School
 - iv. Innovation Academy
6. Project budget was stated to be approximately \$1.0 million.
7. This project is PHASE ONE of a 2-phased project for JCPS
 - a. Phase Two is under design currently and includes similar scope for (5) five additional high schools.
 - b. Anticipated to be released within the next 30 days and construction on both phases will be going on simultaneously.
8. General Bid Requirements were discussed:
 - a. Bid Opening: Thursday, October 19, 2023, 2:00pm in Facility Services Conference Room located at 601-A West Market Street, Smithfield, NC 27577.
 - b. No bid may be withdrawn for a period of 60 days after the bid opening.

- c. Submit bids in a SEALED envelope, with name and license number identified on the envelope. The outside of the envelope must be marked "SEALED BID".
 - i. Mailed bids must be put in a double envelope with "Attention Matthew Hobgood: Sealed Bid Do Not Open" written on the outside envelope. Both envelopes should be sealed. The interior envelope should contain the actual bid and comply with all specification requirements for submitting bids.
 - 1. Mail to – 601-A West Market Street, Smithfield, NC 27557. It is recommended that Bidders utilize a delivery method that will ensure proper arrival of a "SEALED BID" prior to the bid opening.
 - 2. All bids MUST be received at the address stated above PRIOR TO bid opening in order to be considered responsive. If a bid does not arrive prior to bid opening, it will not be opened or considered.
 - d. Bid forms shall include names and license numbers of any major subcontractors, as well as the actual sub-contractor bid amount. (Major Subs on this = Site subs)
 - e. Bid, Performance and Payment bonds are required.
 - f. Minority bidding documentation is required.
 - g. Unit Prices and Allowances indicated are to be included in base bid.
 - h. All construction-related fees are paid by the contractor.
 - i. Liquidated Damages: \$500 per day.
 - j. Construction Duration is 120 consecutive calendar days from date of commencement established in a Notice to Proceed.
 - i. The owner intends to award the contract at the next Board of Education meeting, scheduled for November 14, 2023.
9. SITE VISITS, prior to bid opening: All on-site access shall be coordinated with Matthew Hobgood, Project Manager, 919-986-1949.
10. Security Protocols were discussed:
- a. The owner will continue to occupy all portions of the existing facilities for the duration of the project. Occupants will include students, staff, teachers, etc.
 - b. The contractor is responsible for coordinating all construction activities with the owner including personnel movement and activities, demolition, waste removal, and material deliveries.
 - c. Contractor must adhere to JCPS security protocols for the duration of the project including, but not limited to the following:
 - i. No weapons of any kind allowed on the site.
 - ii. No contraband allowed on site.
 - iii. No smoking or vaping allowed on site.
 - iv. No communication of any kind allowed with students.
 - v. No loud music will be played on site.
 - vi. All materials and tools left on the job site must be locked and secured at all times.
 - vii. The contractor must provide a list of anyone working on the site indicating name, date of birth, driver's license number.
 - viii. Background checks will be required for all construction workers.

- ix. Contractor to hold bi-weekly safety meetings. Owner's representatives are to be present at all meetings.
 - x. Contractor is responsible for providing & maintaining required OSHA protocols and procedures.
11. Contractors must check-in at the front office of each appropriate school before conducting any site visits on school grounds. Owner will notify appropriate schools to expect potential site visits during the bidding period designated. Late afternoon visits are preferred by the owner and respective schools.
 12. Submit all questions in writing via email to Andrew Glover at aglover@oakleycollier.com.
 - a. Responses that require modifications or clarifications to the bidding documents will be issued in writing, via addendum.
 13. Addenda will be issued, as necessary for any modifications or clarifications to bid documents.
 - a. There is no addendum issued currently. Pre-Bid meeting minutes will be included in the first addendum issued, on or around Tuesday, October 10th.
 - b. Submit questions and substitution requests in time for proper response.
 - c. No addendum will be issued after October 16, 2023, EOB.
 14. Substitution requests must be submitted prior to bidding. See specification section 01 60 00 for substitution requirements.
 - a. Approved substitutions will be included in addendum issued.
 15. Contractors are responsible for reading all Unit Prices and Allowances located in sections 01 21 00 and 01 22 00 in the specifications.
 - a. Allowances: INCLUDE IN BASE BID AMOUNT
 - b. Unit Prices: DO NOT INCLUDE IN BASE BID AMOUNT; MUST BE SHOWN ON BID FORM
 16. Q & A Period: The meeting was concluded by opening the floor to questions.
 1. **Question:** Will the state or local jurisdiction provide inspections and permitting?
Response: Permitting will be acquired through the appropriate school's local jurisdiction in Johnston County. Building inspections provided by Johnston County.
 2. **Question:** From which party will the contractor receive directive from while on site?
Response: Oakley Collier Architects is the only party allowed to give directives for this project.
 3. **Question:** Is there a specific Bleacher manufacturer or basis-of-design manufacturer that is used by the school system?
Response: A Basis-of-Design specification/manufacturer will be included in the first addendum.

End of Pre-Bid Meeting Minutes

FORM OF SINGLE PRIME GENERAL CONTRACTOR PROPOSAL

Johnston County High School Exterior Improvements Phase 1 Bidder: _____
Johnston County Public Schools Date: _____
Architect's Project #23028

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Proposal as principal of principals is or are named herein and that no other person than herein mentioned has any interest in this Proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud. The Bidder further declares that he has examined the site of the Work and the Contract Documents relative thereto and has read all special provisions furnished prior to the opening of bids; that he has satisfied himself relative to the work to be performed.

The bidder proposes and agrees if this Proposal is accepted to contract with Johnston County Public Schools in the form of contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, and labor necessary to complete the construction of the Johnston County High School Exterior Improvements Phase One in full accordance with the plans, specifications, and contract documents, to the full and entire satisfaction of Johnston County Public Schools with a definite understanding that no money will be allowed for extra work except as set forth in the General Conditions and Contract Documents for the sum of:

SINGLE PRIME CONTRACT: _____

BASE BID
_____ Dollars(\$)

Subcontractors:	License No.	Dollars(\$)
Site:		

The Bidder further proposes and agrees hereby to commence work under this contract on a date to be specified in a written order of the Architect and shall fully complete all work within **120** consecutive calendar days from date of commencement established in a Notice to Proceed.

BIDDER further agrees to pay substantial completion liquidated damages, the sum of \$500 for each consecutive calendar, and this amount shall be assessed in accordance with Paragraph 8.5 of the General Conditions.

This submission is an attestation that the entity providing this response is in compliance with state and federal conflicts of interest laws, including N.C.G.S. 14-234. Specifically, the entity attests that it is not owned by a Johnston County Board of Education member or the spouse of a JCBOE Board member with more than a 10% ownership interest or other interest in the entity such that, if selected, the entity would be a party to the contract, derive any income or commission directly from the contract, or acquire property under the contract.

UNIT PRICES

Unit prices quoted and accepted shall apply throughout the life of the contract, except as otherwise specifically noted. Unit prices shall be applied, as appropriate, to compute the total value of changes in the base bid quantity of the work all in accordance with the contract documents.

GENERAL CONTRACT:

Unit Price No. 1: Undercut/Fill in Trench Excavations Per 1 cu yd Unit Price (\$) _____

Unit Price Allowance Cost for 10 cu yds included in Base Bid Price(\$) _____

Unit Price No. 2: Undercut/Fill in Open Excavations Per 1 cu yd Unit Price (\$) _____

Unit Price Allowance Cost for 50 cu yds included in Base Bid Price(\$) _____

Unit Price No. 3: Mulch Per 1 cu yd Unit Price (\$) _____

Unit Price Allowance Cost for 20 cu yds included in Base Bid Price(\$) _____

Unit Price No. 4: Site Grading Per 1 cu yd Unit Price (\$) _____

Unit Price Allowance Cost for 50 cu yds included in Base Bid Price(\$) _____

Unit Price No. 5: Asphalt Paving Per 1 sq yd Unit Price (\$) _____

Unit Price Allowance Cost for 75 sq yds included in Base Bid Price(\$) _____

Unit Price No. 6: Sidewalks Per 1 sq ft Unit Price (\$) _____

Unit Price Allowance Cost for 600 sq ft included in Base Bid Price(\$) _____

Unit Price No. 7: Pipe Handrail Per 1 linear ft Unit Price (\$) _____

Unit Price Allowance Cost for 50 linear ft included in Base Bid Price(\$) _____

The undersigned further agrees that in the case of failure on his part to execute the said contract and the bond within ten (10) consecutive calendar days after written notice being given on the award

contract, the check, cash or bid bond accompanying this bid shall be paid into the funds of the Owner's account set aside for the project, as liquidated damages for such failure; otherwise the check, cash or bid bond accompanying this proposal shall be returned to the undersigned.

Attach certified check, cash or bid bond to this proposal.

Respectfully submitted this _____ day of _____ 20_____.

Name of firm or corporation making bid

WITNESS:

By: _____

Title: _____

Proprietorship or Partnership

(Owner, Partner, Pres., V. Pres.)

Address: _____

License No: _____

Federal ID No: _____

(Corporate Seal)

ATTEST:

By: _____

Title: _____

(Corp. Sec. or Asst. Sec. Only)

Addenda received and used in computing bid:

Addendum No. 1 _____ Addendum No. 3 _____

Addendum No. 2 _____ Addendum No. 4 _____

For All Official Notices:

Name and Title

Name of Firm/Corporation

Street Address, City, State and Zip

Telephone and Fax Numbers

JOHNSTON COUNTY BOARD OF EDUCATION
("JCBOE") STANDARD CONTRACTOR AGREEMENT

Last Updated: September 28, 2023

The Johnston County Board of Education ("JCBOE") and _____ ("Contractor"), hereby agree for Contractor to provide _____ ("Work"). The total cost of the Work shall not to exceed _____ (\$_____ .00). The final completion date for the Work shall be _____.

1. **Acceptance.** Contractor's acknowledgment of the terms of this Contract constitutes an agreement to comply with all terms and conditions set forth or referenced (i) in the Vendor Contract for Goods and/or Services, (ii) in the Standard Contract Terms and Conditions herein, (iii) on any attachments thereto, (iv) in any applicable solicitation documentation related to this Contract (including without limitation any request for proposals or invitation for bids or Contractor's response thereto) that deal with the same subject matter as this Contract, and (v) in any other terms and conditions of a written agreement signed by Contractor and the JCBOE that deals with the same subject matter as this Contract (collectively, the "Contract Documents"). The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and JCBOE with respect to the purchase by JCBOE of the (i) goods ("Goods") and/or (ii) services provided or work performed ("Services") as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to JCBOE shall control. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice or in any other communication from Contractor to JCBOE shall be deemed accepted by or binding on JCBOE. JCBOE hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until JCBOE's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by JCBOE are subject to correction.
2. **Quantities.** Shipments must equal exact amounts ordered unless otherwise agreed to in writing by JCBOE. The award of a term contract neither implies nor guarantees any minimum or maximum purchases.
3. **Prices.** If Contractor's price or the regular market price of any of the Goods or Services covered hereunder is lower than the price stated in the Contract Documents on the date of shipment of such Goods or Services, Contractor agrees to give JCBOE the benefit of such lower price on any such Goods or Services. In no event shall Contractor's price be higher than the price last quoted or last charged to JCBOE unless otherwise agreed to in writing. No charges for transportation, boxing, crating, etc. are allowable unless such charges are included in the Contract Documents. Should the Contract Documents include any provision allowing an increase in the contract price due to external conditions, Contractor shall inform JCBOE of such change and JCBOE shall have the right to terminate the Contract if desired.
4. **Price Adjustments (term contracts only).** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the Contractor to other customers.
 - a. **Notification:** Must be given to JCBOE in writing concerning any proposed price adjustments. Such notification shall be accompanied by a copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
 - b. **Decreases:** JCBOE shall receive full proportionate benefit immediately at any time during the contract period.
 - c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the Contract. After this period, a request for increase may be submitted with JCBOE reserving the right to accept or reject the increase, or cancel the Contract. Such action by JCBOE shall occur not later than 15 days after the receipt by JCBOE of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
5. **Invoices.** It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to JCBOE's accounts payable department with a copy to the JCBOE Project Coordinator.
6. **Freight on Board.** All shipments of Goods are freight on board destination unless otherwise stated in the Contract Documents.
7. **Taxes.** Any applicable taxes shall be invoiced as a separate item.
8. **Payment Terms.** Payment terms are Net 30 days after receipt of correct invoice or acceptance of Goods or Services, whichever is later.
9. **Condition and Packaging.** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
10. **Delays in Shipment.** Time and date of delivery are of the essence, except when delay is due to causes beyond Contractor's reasonable control and without Contractor's fault or negligence.

11. **Risk of Loss.** Contractor shall have the risk of loss of and damage to the Goods subject to the Contract Documents until such Goods are delivered to the destination and accepted by JCBOE or its nominee.
12. **Rejection.** All Goods and Services shall be received subject to JCBOE's inspection. Goods or Services that are defective in workmanship or material or otherwise not in conformity with the requirements of the Contract Documents may be rejected and returned at Contractor's expense or may be accepted at an appropriate reduction in price. JCBOE may require Contractor to promptly replace or correct any rejected Goods or Services and, if Contractor fails to promptly replace or correct such Goods or Services, JCBOE may contract with a third party to replace such Goods and Services and charge Contractor the additional cost.
13. **Compliance with All Laws.** Contractor warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders. Contractor further warrants that it holds all necessary licenses and other necessary requirements to complete the work.
14. **E-Verify Compliance.** Pursuant to N.C. Gen. Stat. § 143-133.3, Contractor represents and warrants that it is aware of and in compliance with Article 2 of Chapter 64 of the North Carolina General Statutes, requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees, and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Contractor shall also ensure that any of its subcontractors (of any tier) will remain in compliance with these laws at all times while providing subcontracted services in connection with this Contract.
15. **Iran Divestment.** Contractor certifies that it is not identified on a list created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. §147-86.58 as a person or entity engaging in investment activities in Iran. Contractor further certifies that in the performance of this Agreement it shall not use any contractor or subcontractor that is identified on such a list.
16. **Warranties.** Contractor warrants that all Goods and Services delivered hereunder will be free from defects in materials and workmanship and will conform strictly to the specifications, drawings, or samples specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by JCBOE of the Goods and Services and shall run to JCBOE and any user of the Goods or Services. This express warranty is in addition to Contractor's implied warranties of merchantability and fitness for a particular purpose which shall not be disclaimed. In addition to any other rights available at law or equity, JCBOE shall be entitled to all rights and remedies provided by the Uniform Commercial Code, Chapter 25 of the North Carolina General Statutes, for breach of express warranties and implied warranties of merchantability or fitness for a particular purpose, including but not limited to consequential and incidental damages.
17. **Indemnification.** Contractor shall indemnify and hold harmless JCBOE, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorney's fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Contractor's performance or lack of performance of the terms and conditions of the Contract. In the event that any Goods or Services sold and delivered or sold and performed under the Contract Documents shall be defective in any respect whatsoever, Contractor shall indemnify and save harmless JCBOE, its officers, agents, employees and assigns from all loss or the payment of all sums of money by reason of all accidents, injuries or damages to persons or property that shall happen or occur in connection with the use or sale of such Goods or Services and are contributed to by said condition. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of JCBOE in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless JCBOE, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
18. **Insurance.** Unless such insurance requirements are waived or modified by JCBOE or Insurance and Risk Management, Contractor certifies that it currently has and agrees to purchase and maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to JCBOE and authorized to do business in the State of North Carolina: **Automobile** - Contractor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired automobiles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence. **Commercial General Liability** - Contractor shall maintain commercial general liability insurance that shall protect Contractor from claims of bodily injury or property damage which arise from performance under the Contract. This insurance shall include coverage for contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/mutual aggregate. **Workers' Compensation and Employers' Liability Insurance** - If applicable to Contractor, Contractor shall meet the statutory requirements of the State of North Carolina for workers' compensation coverage and employers' liability insurance. Contractor shall also provide any other insurance or bonding specifically recommended in writing by the DIRM or required by applicable law. Certificates of such insurance shall be furnished by Contractor to JCBOE and shall contain the provision that JCBOE be given 30 days' written notice of any intent to amend or terminate by either Contractor or the insuring company. Failure to furnish insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.
19. **Termination for Convenience.** For good cause as determined by JCBOE in good faith, JCBOE shall have the right to terminate any work under the Contract Documents, in whole or in part, at any time at its complete discretion by providing 30 days' notice in writing from JCBOE to Contractor. If the Contract is terminated by JCBOE in accordance with this paragraph, Contractor will be paid in an amount which bears the same ratio to the total compensation as does the Goods or Services actually delivered or performed to the total originally contemplated in the Contract. JCBOE will not be

liable to Contractor for any costs for completed Goods, Goods in process or materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.

20. **Termination for Default.** JCBOE may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Contractor. In addition to any other remedies available to JCBOE in law or equity, JCBOE may procure upon such terms as JCBOE shall deem appropriate, Goods or Services substantially similar to those so terminated, in which case Contractor shall be liable to JCBOE for any excess costs for such similar supplies or services and any expenses incurred in connection therewith.
21. **Contract Funding.** It is understood and agreed between Contractor and JCBOE that JCBOE's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of JCBOE for any payment may arise until funds are made available to JCBOE's Finance Officer and until Contractor receives notice of such availability. Should such funds not be appropriated or allocated, JCBOE may at its discretion immediately terminate the Contract. JCBOE shall not be liable to Contractor for damages of any kind (general, special, consequential or exemplary) as a result of such termination.
22. **Accounting Procedures.** Contractor shall comply with any accounting and fiscal management procedures prescribed by JCBOE to apply to the Contract. Contractor shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.
23. **Improper Payments.** Contractor shall assume all risks attendant to any improper expenditure of funds under the Contract. Contractor shall refund to JCBOE any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Contractor shall make such refunds within 30 days after JCBOE notifies Contractor in writing that a payment has been determined to be improper.
24. **Contract Transfer.** Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of JCBOE.
25. **Contract Personnel.** Contractor agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in the Contract.
26. **Key Personnel.** Contractor shall not substitute for key personnel assigned to the performance of the Contract without prior written approval from JCBOE Project Coordinator. "Key personnel" are defined as those individuals identified by name or title in the Contract Documents or in written communication from Contractor. "JCBOE Project Coordinator" is the individual at JCBOE responsible for administering the Contract.
27. **Contract Modifications.** The Contract may be amended only by written amendment duly executed by both JCBOE and Contractor. However, minor modifications may be made by JCBOE Project Coordinator to take advantage of unforeseen opportunities that: (a) do not change the intent of the Contract or the scope of Contractor's performance; (b) do not increase Contractor's total compensation or method of payment; and (c) either improve the overall quality of the product or service to JCBOE without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the Contract must be recorded in writing and signed by both the Project Coordinator and Contractor, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.
28. **Relationship of Parties.** Contractor is an independent contractor and not an employee of JCBOE. The conduct and control of the work will lie solely with Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and JCBOE. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.
29. **Advertisement.** The Contract will not be used in connection with any advertising by Contractor without prior written approval by JCBOE.
30. **Nondiscrimination.** During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
31. **Conflict of Interest.** Contractor represents and warrants that no member of JCBOE or any of its employees or officers has a personal or financial interest or will benefit from the performance of the Contract or has any interest in any Contract, subcontract or other agreement related to the Contract. Contractor shall not permit any member of JCBOE or any of its employees or officers to obtain a personal or financial interest or benefit from the performance of the Contract or to have any interest in any Contract, subcontract or other agreement related to the Contract, during the term of the Contract. Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
32. **Gratuities to JCBOE.** The right of Contractor to proceed may be terminated by written notice if JCBOE determines that Contractor, its agent or another representative offered or gave a gratuity to an official or employee of JCBOE in violation of policies of JCBOE.
33. **Kickbacks to Contractor.** Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees,

subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a JCBOE Contract or in connection with a subcontract relating to a JCBOE Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to JCBOE in writing the possible violation.

34. **Monitoring and Evaluation.** Contractor shall cooperate with JCBOE, or with any other person or agency as directed by JCBOE, in monitoring, inspecting, auditing or investigating activities related to the Contract. Contractor shall permit JCBOE to evaluate all activities conducted under the Contract. JCBOE has the right at its sole discretion to require that Contractor remove any employee of Contractor from JCBOE property and from performing services under the Contract following provision of notice to Contractor of the reasons for JCBOE's dissatisfaction with the services of Contractor's employee.
35. **Financial Responsibility.** Contractor represents that it is financially solvent and able to perform under the Contract. If requested by JCBOE, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by JCBOE's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then JCBOE shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
36. **Governmental Restrictions.** In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the Contractor to notify, in writing, the purchasing office at once, indicating the specific regulation which required such alterations. JCBOE reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
37. **Inspection at Contractor's Site.** JCBOE reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for JCBOE determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.
38. **Confidentiality Information. Student Information.** If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to students' official records, Contractor agrees to keep any such information confidential and to not disclose or permit to be disclosed, directly or indirectly, to any person or entity any such student information. The Contract shall not be construed by either party to constitute a waiver of or to in any manner diminish the provisions for confidentiality of students' records. Additionally, pursuant to N.C.G.S. 115C-401.1, Prohibition on the Disclosure of Information about Students, it is unlawful for a person who enters into a contract with a local board of education to sell personally identifiable information that is obtained from a student as a result of that person's performance under the Contract. **Employee Personnel Information.** If, during the course of Contractor's performance of the Contract, Contractor should obtain any information pertaining to employees of JCBOE's personnel records, Contractor agrees to keep any such information confidential and to not disclose or permit to be disclosed, directly or indirectly, to any person or entity any such personnel information. **Other Confidential Information.** (a) Contractor agrees that it will at all times hold in confidence for JCBOE all designs, know-how, techniques, devices, drawings, specifications, patterns, technical information, documents, business plans, item requirements, forecasts and similar data, oral, written or otherwise, conveyed by JCBOE to Contractor in connection herewith or procured, developed, produced, manufactured or fabricated by Contractor in connection herewith or procured, developed, produced, manufactured or fabricated by Contractor in connection with Contractor's performance hereunder (collectively, "Information"). Contractor shall exercise the same degree of care to prevent disclosure of any Information to others as it takes to preserve and safeguard its own proprietary information, but in any event, no less than a reasonable degree of care. Contractor shall not, without the prior written consent of JCBOE, reproduce any Information; nor disclose Information to any party; nor use any Information for any purpose other than performance for the benefit of Contractor hereunder. (b) Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to JCBOE in connection with the Goods or other performance covered by the Contract shall not, unless otherwise specifically agreed upon in writing by JCBOE, be deemed to be confidential or proprietary information and shall be acquired by JCBOE free from any restrictions as part of the consideration of the Contract.
39. **Schematic Designs.** As provided by N.C.G.S. 115C-105.53(c), schematic designs of school buildings are not considered public records or subject to public inspection, and Contractor shall keep in confidence any such designs in its possession for purposes of this Contract.
40. **Permits.** Contractor agrees that it is the Contractor's exclusive responsibility to maintain all necessary permits the Contractor's needs to complete the scope of work required by this project.
41. **Intellectual Property.** Contractor agrees, at its own expense, to indemnify, defend and save JCBOE harmless from all liability, loss or expense, including costs of settlement and attorney's fees, resulting from any claim that JCBOE's use, possession or sale of the Goods or Services infringes any copyright, patent or trademark or is a misappropriation of any trade secret.
42. **No Pre-Judgment or Post-Judgment Interest.** In the event of any action by Contractor for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Contractor specifically waives any claim for interest.
43. **Background Checks.** At the request of JCBOE's Project Coordinator, Contractor (if an individual) or any individual employees of Contractor involved in the performance of the Contract shall submit to JCBOE criminal background check and drug testing procedures.

44. **Jessica Lunsford Act.** As required by N.C.G.S. 115C-332.1, all Contractors, subcontractors, consultants, sub-consultants, and vendors shall conduct prior to the start of service and annually thereafter a review of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry for all employees who will provide services under this contract that involve direct interaction with JCBOE students. For Contractor's convenience only, all of the required registry checks may be completed at no cost by accessing the United States Department of Justice Sex Offender Public Website at <http://www.nsopw.gov/>. Any employee of the contractor, subcontractor, consultant, sub-consultant, or vendor found to be registered on any of the lists identified herein shall not perform any work under this contract and shall not be permitted to enter property owned by Johnston County Public Schools or Johnston County on behalf of Johnston County Public Schools. Failure to comply may result in legal action and termination of the contract for default.
45. **Safety Data Sheets.** Pursuant to the Hazard Communication Standard (29 C.F.R. §1910.1200, et seq.) and incorporated by reference, except as modified by 13 N.C.A.C. 07F .0101, Contractor shall provide all safety data sheets in accordance with federal and state regulations.
46. **Mediation.** If a dispute arises out of or relates to the Contract, or the breach of the Contract, the parties agree first to try in good faith to settle the dispute through negotiation. If the dispute cannot be settled through negotiation, Contractor agrees to offer to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules, or administered by another mediator jointly selected by the parties, before resorting to litigation.
47. **Attorney's Fees.** In the event of legal proceedings related to the Contract, JCBOE shall be entitled to recover its costs and reasonable attorney's fees to the maximum extent allowed by law, should JCBOE be the prevailing party.
48. **No Third Party Benefits.** The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.
49. **Force Majeure.** If JCBOE is unable to perform its obligations or to accept the services or goods because of Force Majeure (as hereinafter defined), the time for such performance by JCBOE or acceptance of services will be equitably adjusted by allowing additional time for performance or acceptance of services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of JCBOE.
50. **Ownership of Documents.** All documents created pursuant to the Contract shall, unless expressly provided otherwise in writing, be owned by JCBOE. Upon the termination or expiration of the Contract, any and all finished or unfinished documents and other materials produced by Contractor pursuant to the Contract shall, at the request of JCBOE, be turned over to JCBOE. Any technical knowledge or information of Contractor which Contractor shall have disclosed or may hereafter disclose to JCBOE shall not, unless otherwise specifically agreed upon in writing by JCBOE, be deemed to be confidential or proprietary information and shall be acquired by JCBOE free from any restrictions as part of the consideration of the Contract.
51. **Strict Compliance.** JCBOE may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
52. **General Provisions.** JCBOE's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Contractor hereunder, JCBOE shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without JCBOE's prior, express written consent.
53. **Contract Situs.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Johnston County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.
54. **Federal Tax Number or Social Security Number.** Upon request by JCBOE or its representatives, Contractor shall provide its federal tax identification number or, if Contractor is an individual, his or her Social Security Number.
55. **Liquidated Damages.** For the first 10 calendar days that final completion exceeds _____, the Contractor shall be responsible for liable for \$ _____ per day as liquidated damages. Starting the 11th calendar day, for each calendar day that final completion exceeds _____, the Contractor shall be liable for \$ _____ per day as liquidated damages. Such liquidated damages are agreed to be reasonable estimate of the JCBOE's damages for delayed completion of the work and shall not be considered a penalty. The JCBOE may deduct liquidated damages from any unpaid amounts due to the Contractor under this agreement.