

SECTION 00101

INSTRUCTIONS TO BIDDERS

1. Introductory: In order to be entitled for consideration, proposals must be made in accordance with the following instructions as scheduled in the Advertisement for Bid, at which time and place the proposals will be publicly opened and read. The Owner reserves the right to reject any or all bids and to waive technicalities and informalities. See Advertisement for Bid, 00020, for bid date and time. Failure to comply with all instructions to bidders may be cause for rejection of bid.
2. The Owner of the proposed work is:

Gwinnett County Board of Education
437 Old Peachtree Road NW
Suwanee, Georgia 30024
3. The title of the Work will be as indicated in the Advertisement for Bids.
4. Architects and Engineers: The Architect of record or his authorized representative, and the consulting engineer(s) whose seal(s) occur on the Construction Documents will administer the construction contract.
5. Contractors Qualifications: General Contractors shall be previously approved through the Owner's pre-qualification process for construction.
6. Bids:
 - A. Sealed bids shall be submitted in duplicate on Bid Forms attached to these documents, **Section 00310 - Bid Proposal Form**, on extra copies available from the architect or on a facsimile of such forms. Submit in sealed envelope addressed to the Gwinnett County Board of Education plainly marked with the name of the project as shown in the Advertisement for Bid. Enclose in the envelope the other documents required to be submitted.
 - B. General Contractors are allowed to amend the Proposal on bid day by indicating an additive or deductive cost on the outside of the sealed envelope. Changes to the required list of Sub-Contractors can also be indicated on the outside of the sealed envelope. No changes will be allowed once time is called and the opening of bids has commenced.
 - C. The successful bidder will be required to contract with those Sub-contractors listed on the Proposal Form unless there are objections, in writing, from the Owner or Sub-contractor. The Sub-contractor may withdraw, in writing, due to circumstances such as a financial

error or being unable to meet certain requirements of the contract documents.

7. Documents: Bidding documents may be examined in the office of the Architect, The Gwinnett County Board of Education, and reviewed at the following plan rooms:

AGC - Builders Exchange Plan Room
1940 The Exchange
Suite 300
Atlanta, Georgia 30339
678-298-4130
678-298-4134 (Fax)
content@constructconnect.com

AGC Plan Room
C/O Gainesville Whiteprint
312 Bradford Street
Gainesville, Georgia 30501
770-536-8254
770-534-3174 (Fax)
repro@aimages.com

LDI Repro-printing Center
558 Old Norcross Road, Suite 205
Lawrenceville, Georgia 30046
770-237-9363
770-237-2464 (Fax)
lawrenceville@ldireproprinting.com

CMD Construction Market Data
Document Processing Center
30 Technology Parkway, South
Suite 100
Norcross, Georgia 30092-2912
770-417-4000 OR 800-303-8629
800-424-3996
docprosessiong@cmdgroup.com

Contractor's Register, Inc.
DBA The Blue Book
P.O. Box 500
Jefferson Valley, New York 10535-0500
800-431-2584
914-243-4936 (Fax)
emcveigh@thebluebook.com

8. Addenda: Any addendum issued prior to the time of opening of bids shall be covered in the proposal and, in closing the Contract, they shall become a part hereof.
9. Interpretation: No oral interpretations will be made to bidders as to the meaning of bid documents. Requests for such interpretations shall be made in writing to the Architect no later than seven (7) days prior to time for receiving bids and failure on the part of the successful bidder to do so shall not relieve him, as a contractor, of the obligation to execute such work in accordance with a later interpretation by the Architect. All the interpretations made to the bidders shall be made in the form of addenda to the Drawings and Project Manual and sent to all bidders. Efforts will be made to issue the last addendum not less than five (5) days prior to the bid opening date.

10. Bond Requirements:

- A. A Bid Bond (A.I.A. Document A310) payable to the Gwinnett County Board of Education in the amount equal to 5% of the bid price, must be submitted with the Proposal. The bid bond shall be executed by a surety company, licensed to do business in the State of Georgia listed in the Department of the Treasury Circular 570, latest revision. **The Surety Company shall have an A.M. Best Company minimum rating of "A" with a minimum financial size of VI (6) or better in accordance with the General Conditions.** No company, regardless of the size of financial rating, will be allowed to write its own bond. The Attorney-in-Fact who signs the bid bond must file with the bid bond a certified copy of his Power of Attorney to sign such bond. CERTIFIED OR CASHIER'S CHECKS WILL NOT BE ACCEPTED IN LIEU OF A BID BOND.
- B. A Performance Bond and Labor and Materials Payment Bond satisfactory to the Owner each in the amount of 100% of the contract sum will be required of successful bidder to guarantee delivery of completed work under contract and payment for labor and materials. These bonds shall be written on Gwinnett County Public School Standard Forms attached at the end of Section 00310 – Bid Proposal Form. No company, regardless of size or financial rating, will be allowed to write its own bonds. **The Surety Company shall have an A.M. Best Company minimum rating "A" with a minimum financial size of VI (6) or better in accordance with the General Conditions.** Bonds must be accompanied by letter stating bonding company's current rating for verification prior to acceptance by the Owner and execution of the formal Owner/Contractor Agreement.
- C. Bonding of Subcontractors: Include in the Base Bid, Performance and Labor and Materials Payment Bonds, each in the amount of 100% of the subcontract sum, for each Subcontractor having a contract of \$50,000.00 or more for Roofing, HVAC, Plumbing, Sprinkler System, Structural Steel Fabricators, Structural Steel Erectors and Electrical work as required by the General Conditions. The General Contractor cannot change major subcontractors after bid. **The Surety Company shall have an AM Best Company minimum rating of "A" with a minimum financial size of VI (6) or better in accordance with the General Conditions.**
- D. Bid Surety Bond and Performance and Labor and Material Payment Bonds must be accompanied by a Certificate of Power of Attorney showing that the party who executed the bonds is authorized to do so by the surety company.

11. Contract Award: The Gwinnett County Board of Education reserves the right to award the project on whatever basis is in the interest of the Owner and to accept or reject any or all bids and to waive technicalities and informalities. If awarded, the Contract will be let to the lowest responsible bidder whose base bid is within the project budget and is able to furnish satisfactory surety company bonds. As a means of determining who the low bidder is, should all bids exceed the project budget, award will be made at option of the Owner to the responsible bidder whose base bid, when reduced by deductive alternates and as shown in the bid, is within funds available. Owner reserves the right to accept or reject alternates in any order that is in their best interest. Proposals which contain irregularities or qualifications of any kind or which do not comply with the Contract Documents are subject to being rejected and returned to the bidder without having been read and entered in the bid tabulation.

12. Contract Form: The Contract for this project will be comprised of three parts as follows:
 - A. Gwinnett County Board of Education, Standard Form of Agreement Between Owner and Contractor, Revision VIII, dated 09/23/15, where the Basis of Payment is a Stipulated Sum. Copies of this agreement may be obtained through the Office of Facility Planning.
 - B. Attachment Exhibit "A" to Standard Form of Agreement Between the Owner and Contractor, Revised Date 3/29/12.
 - C. Gwinnett County Board of Education, Articles 1 through 17, General Conditions, Revision VIII, pages 1 through 45, dated 8/30/13.

The agreement form will be prepared by the Architect and issued to the Contractor for execution and returned to the Owner for signature. Executed bonds and insurance certificate must be submitted to the Owner by the Contractor at the Pre-construction Conference.

13. Samples: If required by the Owner, the successful bidder will submit samples of items they propose to furnish before any award is made.

14. Before visiting the site for any reason prior to the bid date, all prospective bidders (General Contractors and Subcontractors) shall call the administrative office of the school and notify the administrative personnel of the day and time when they plan to visit the site. Upon arriving at the school, the representatives of the prospective bidders will then sign-in at the administrative office area and obtain the number of visitor badges which are to be worn while on the school property. Upon completion of the site visit, the prospective bidder's personnel will then return their visitor badges to the office and sign out. Failure to comply with the above

mentioned procedure would result in the personnel involved being asked to vacate the facility and site whether or not they have completed their investigation.

15. On additions, renovations and/or modifications to existing school facilities, the AHERA (Asbestos Hazard Emergency response Act) rules require that a Management Plan be on file in the office of the local school and this is available for the bidders consultation; however, the bidder may not remove this document from the school office. Copies may be obtained at \$0.20 per sheet. Contact the GCPS Project Coordinator at Building "C", 53 Gwinnett drive, Lawrenceville, GA 30045, telephone: (770) 513-6855, if you wish to order a complete set or copies of individual pages. The Management Plan shows the areas within the building that tested positive ACM during the required building inspections. If there is any ACM which will be disturbed by the work included in the contract, the GCPS will have it removed, unless specifically stated otherwise in the contract documents.
16. Fees: The Owner will pay for all Sewer Impact Fees, Water Tap Fees, and Water Meter Fees for work performed by the Gwinnett County Water Department. The Contractor will pay for all remaining work. Costs for temporary water, gas, telephone and power services will be paid for by the Contractor. The Owner will pay for utility costs starting on the date of Substantial Completion.
17. Refer to GCPS General Conditions Item No. 3.7.1 for permits required to be secured and paid by the General Contractor.
18. GEORGIA COMPETITIVE BID REQUIREMENTS OCGA 36-91-21 (d)
Contractor's full compliance with all applicable state competitive bid laws, O.C.G.A. §36-91-21 (d) is a condition to the bid proposal and contract. Contractors are required to affirm compliance by completing and returning the Affidavit for Bidding with Contractor's bid.
19. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT OCGA 13-10-90
Contractor's full compliance with all applicable federal and state security and immigration laws, including without limitation the Georgia Security and Immigration Compliance Act as amended, O.C.G.A. §13-10-90, O.C.G.A. §13-10-91, and Georgia Department of Labor Rule 300-10-1, *et. seq.* is a condition to the bid proposal and contract. Contractors are required to affirm compliance by completing and returning the Georgia Security and Immigration Compliance Documents with Contractor's bid.

20. Documents Required at Pre-construction Conference: The winning contractor shall provide the following items at the Pre-Construction Conference: Signed Contract, Schedule of Values (G703), Sub-contractor List with 24 hour contacts (G705), Payment and Performance Bonds, Bond Rating Letter, Labor & Material Bond, Insurance Certificates, List of Suppliers, W-9 Substitute - Vendor Information Form, and Subcontractor Affidavits – licensed in Gwinnett County, and Schedule.

AFFIDAVIT FOR BIDDING

(This form to be executed in compliance with Official Code of Georgia Annotated Section 36-91-21 (3). If the Contractor is a partnership, the Affidavit shall be executed by all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for or procuring the contract. If the Contractor is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the Contract shall execute the Affidavit.)

STATE OF GEORGIA
COUNTY OF: _____

_____,
being duly sworn, hereby deposes and says that he/she has read, and is familiar with the provisions of the Official Code of Georgia Annotated Section 36-91-21 (d) which provides as follows:

- (d) Whenever a public works construction contract for any governmental entity subject to the requirements of this chapter is to be let out by competitive sealed bid or proposal, no person, by himself or herself or otherwise, shall prevent or attempt to prevent competition in such bidding or proposals by any means whatsoever. No person who desires to procure such work for himself or herself or for another shall prevent or endeavor to prevent anyone from making a bid or proposal therefor by any means whatever, nor shall such person so desiring the work cause or induce another to withdraw a bid or proposal for the work.

and that he/ she has not directly or indirectly violated said provisions of the law.

Further, Affiant saith not.

This _____ day of _____ 20____.

Sworn to and subscribed before me this _____ day of _____ 20____.

Notary Public

My commission expires _____

This _____ day of _____ 20_____.



**IMMIGRATION AND SECURITY FORM
(GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT)**

Contractor's Name:	
State Entity's Name:	
State Solicitation/ Contract No.:	

CONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned Contractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the Contractor identified above has registered with and is participating in a federal work authorization program*, in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the State Entity, Contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the attached Subcontractor Affidavit. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the State Entity at the time the subcontractor(s) is retained to perform such service.

EEV / E-Verify™ Company Identification Number

BY: Authorized Officer or Agent
(Contractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20__

Notary Public

[NOTARY SEAL]

My Commission Expires:

*any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603



**IMMIGRATION AND SECURITY FORM
(GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT)**

Contractor's Name:	
State Entity's Name:	
State Solicitation/ Contract No.:	

ADDITIONAL INSTRUCTIONS TO CONTRACTOR: Identify all subcontractors used to perform under the state contract. In addition, you must attach a signed and notarized affidavit (third page of this form) from each of the subcontractors listed below. The contractor is responsible for providing a signed and notarized affidavit to the State Entity within five (5) days of the addition of any new subcontractor used to perform under the identified state contract.

Contractor's Name:	
Subcontractors:	



**IMMIGRATION AND SECURITY FORM
(GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT)**

Contractor's Name:	
Subcontractor's (Your) Name:	
State Entity's Name:	
State Solicitation/ Contract No.:	

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned Subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the Subcontractor which is engaged in the physical performance of services under a contract with the Contractor identified above on behalf of the State Entity identified above has registered with and is participating in a federal work authorization program*, in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

EEV / E-Verify™ Company Identification Number

BY: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20__

Notary Public

[NOTARY SEAL]

My Commission Expires:

*any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603

END OF SECTION

Gwinnett County Public Schools
W-9 Substitute – Vendor Information Form

Vendor # _____

New Vendor Vendor Update

Vendor: Complete and fax to requesting department/school - Name _____ Fax # _____

Sole Proprietor Partnership Incorporated Gov Entity LLC Other _____ (HR, Risk Mgmt)

Company/Individual Name on IRS Record Phone # Fax #

Company DBA Name – *payments will be made payable to this name* Phone # Fax #

Address (PO Box, number, street, apt or suite number, city, state, 9-digit zip required)

Purchase Order Information

Phone # Fax #

(PO Box or street, city, state, 9-digit zip) E-Mail Address

Contact name & title _____

Preferred Method of PO Dispatch US Mail E-Mail
Freight Terms Prepaid Charge Back

Remit to Information

Phone # Fax #

(PO Box or street, city, state, 9-digit zip) E-Mail Address

Effective date Inactivate other Remit address (Y/N) Make Remit location default (Y/N) Update requested by

1099 Information

Phone # Fax #

(PO Box or street, city, state, 9-digit zip) E-Mail Address

Effective date Check withholding box (Y/N) Default class (06-medical, 07-non-employee) Update requested by

Business Classification General purchasing Textbooks Construction Utilities Medical
 Services Refund Other _____

Comments _____

Financial Operations Use Only

Vendor Created/Updated _____ Date _____
Vendor Approved _____ Date _____

**Gwinnett County Public Schools
W-9 Substitute – Vendor Information Form**

SUPPLEMENTAL INFORMATION – ALL VENDORS OR PAYEES

**The information below is requested under U.S. Tax Laws.
Failure to provide this information may prevent you from being able to do business with Gwinnett County Public Schools, and will result in payments being withheld until vendor information is provided.**

U.S. Taxpayer Identification Number (TIN):

The TIN provided must match the name on IRS Record (provided on page 1) to avoid backup withholding. For individuals, this is your Social Security Number (SSN). For other entities, it is your Employer Identification Number (EIN).

SSN: _____ EIN: _____

Work Status (please circle Yes or No):

- | | | |
|---|-----|----|
| 1. Are you currently an employee of Gwinnett County Public Schools (GCPS)? | Yes | No |
| 2. Are you currently receiving retirement benefits from any State of Georgia retirement system? | Yes | No |
| 3. Do you offer services exclusively to GCPS? | Yes | No |
| 4. Does GCPS set your work hours and schedule of work? | Yes | No |
| 5. Does GCPS provide all of your equipment, supplies and materials? | Yes | No |

SUBSTITUTE IRS FORM W-9 CERTIFICATION

Under penalties of perjury, I certify that the above information is correct and that:

1. The number shown on this form is my correct taxpayer identification number (or I am writing for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions – You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN.

Signature of U.S. person and vendor representative
Must be authorized to sign an IRS W-9 form

Date

Print name and title of U.S. person and vendor representative

PAYMENT BOND (Contractor)

_____, a corporation duly
[Insert Proper Name of Surety]
organized and existing under the laws of the State of _____, as surety ("Surety"), and
_____, as principal ("Contractor"), enter
[Insert Proper Name of Contractor]
into, execute this bond ("Payment Bond"), and bind themselves in favor of the Gwinnett County Board of
Education, as obligee ("Owner") in the penal sum of
_____ dollars (\$ _____), as of _____.
[Insert Penal Sum in words and numerals] *[Insert Date of Construction Contract]*

WHEREAS, the Contractor has executed a contract with the Owner of even date herewith
("Construction Contract") for construction of:

[Insert Description and Location of the Project]

("Project"); and,

WHEREAS, the Owner has required the Contractor to furnish this Payment Bond containing the
terms and conditions set forth herein as a condition to executing the Construction Contract with the
Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves,
their heirs, administrators, executors and successors agree:

1.

The Construction Contract is hereby incorporated herein and by reference made a part hereof to
the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are
bound for the full performance of the Construction Contract including without exception all of its terms and
conditions, both express and implied, and, without limitation, specifically including Contractor's obligation
to pay for labor, materials, machinery, and equipment provided in connection with the Construction
Contract performance.

2.

For purposes of this Payment Bond, Beneficiary is defined as any subcontractor or other person
supplying labor, materials, machinery, or equipment in the prosecution of the work provided for in the
Construction Contract, or any other person entitled to the protection of this Payment Bond pursuant to the
provisions of Title 36, Chapter 91, Official Code of Georgia Annotated.

3.

Every Beneficiary who has not been paid in full for labor or material furnished in the prosecution of
the work on the Project before the expiration of a period of ninety (90) days after the day on which the last
of the labor was done or performed by such person or the material or equipment or machinery was
furnished or supplied by such person for which such claim is made, or when he or she has completed his
or her subcontract for which claim is made, shall have the right to bring an action on this Payment Bond

for the amount, or the balance thereof, unpaid at the time of the commencement of such action and to prosecute such action to final execution and judgment for the sum or sums due such person; provided, however, that:

(A) Any person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the Contractor where the Contractor has not complied with the notice of commencement requirements in accordance with Code Section 36-91-92, Official Code of Georgia Annotated, shall have the right of action upon this Payment Bond upon giving written notice to the Contractor within ninety (90) days from the day on which such person did or performed the last of the labor or furnished the last of the material or machinery or equipment for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was performed or done; provided, however, that: (i) the Contractor's failure to supply a copy of the notice of commencement within ten calendar days of receipt of a written request from a subcontractor, materialman or person shall render the provisions of this paragraph 3(A) inapplicable to such subcontractor, materialman or person, and (ii) the Contractor's failure to file a notice of commencement shall render the notice to contractor requirements of this paragraph 3(A) inapplicable.

(B) Any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the Contractor where the Contractor has complied with the notice of commencement requirements in accordance with subsection (a) of Code Section 36-91-92, Official Code of Georgia Annotated, shall have the right of action on this Payment Bond provided such person shall, within thirty (30) days from the filing of the notice of commencement or thirty (30) days following the first delivery of labor, material, machinery or equipment, whichever is later, give to the Contractor a written notice setting forth:

(i) The name, address and telephone number of the person providing labor, material, machinery or equipment;

(ii) The name and address of each person at whose instance the labor, material, machinery or equipment is being furnished;

(iii) The name and the location of the Project; and

(iv) A description of the labor, material, machinery or equipment being provided and, if known, the contract price or anticipated value of the labor, material, machinery or equipment to be provided or the amount claimed to be due, if any; and

(C) Nothing contained in this Payment Bond shall limit the right of action of a Beneficiary to the ninety (90) day period referenced in paragraph 3(A) above.

The notice required under paragraph 3(A) of this Payment Bond may be served by registered or certified mail, postage prepaid, or statutory overnight delivery, duly addressed to the Contractor, at any place at which the Contractor maintains an office or conducts his or her business or at his or her residence, by depositing such notice in any post office or branch post office or any letter box under the control of the United States Postal Service; alternatively, notice may be served in any manner in which the sheriffs of the State of Georgia are authorized by law to serve summons or process.

Every action instituted on this Payment Bond shall be brought in the name of the Beneficiary, without the Owner being made a party thereto.

4.

In no event shall the Surety be obligated hereunder for sums in excess of the Penal Sum. As used in this Payment Bond, the term "Penal Sum" means the amount stated as the penal sum in the preamble of this Payment Bond, as that amount may be adjusted from time to time pursuant to paragraph 5 below.

5.

The Surety waives notice of any changes to the Construction Contract including, without limitation, changes in the contract time, the contract price, or the work to be performed. If the total amount payable by the terms of the Construction Contract is increased to an amount in excess of the then current Penal Sum, then, automatically and without notice to or any action required of any party, the Penal Sum shall be increased as the total amount payable by the terms of the Construction Contract is increased. No agreement, modification, or change in the Construction Contract, change in the work covered by the Construction Contract, or extension of time for the completion of the Construction Contract shall release the Surety of this Payment Bond.

6.

No action can be instituted hereunder after one (1) year from the completion of the Construction Contract and the acceptance of the Project by the Owner and any other applicable public authorities.

7.

Unless otherwise provided herein, any and all notices to the Surety or the Contractor shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below, including a courtesy copy to the Owner:

Surety: _____

Attn: _____

Contractor: _____

Attn: _____

Owner: Gwinnett County Board of Education

Attn: _____

8.

Notwithstanding any provision herein that may be to the contrary, this Payment Bond is intended to be a statutory payment bond under applicable laws of the State of Georgia and shall be so construed.

CONTRACTOR:

SURETY:

_____[SEAL]
[Typed Name]

_____[SEAL]
[Typed Name]

By: _____
[Signature]

By: _____
[Signature]

[Printed Name, Title and Address]

[Printed Name, Title and Address]

PERFORMANCE BOND (Contractor)

_____, a corporation duly
[Insert Proper Name of Surety]
organized and existing under the laws of the State of _____, as surety ("Surety"), and
_____, as principal
[Insert Proper Name of Contractor]
("Contractor"), enter into, execute this bond ("Performance Bond"), and bind themselves in
favor of the Gwinnett County Board of Education as obligee ("Owner"), in the penal sum of
_____ dollars (\$_____), as of _____.
[Insert Penal Sum in words and numerals] *[Insert Date of Construction Contract]*

WHEREAS, the Contractor has executed a contract with the Owner of even date herewith
("Construction Contract") for construction of:

[Insert Description and Location of the Project]

("Project"); and

WHEREAS, the Owner has required the Contractor to furnish this Performance Bond containing
the terms and conditions set forth herein as a condition to executing the Construction Contract with the
Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves,
their heirs, administrators, executors and successors agree:

1.

The Construction Contract is hereby incorporated herein and by reference made a part hereof to
the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are
bound for the full performance of the Construction Contract, including, without exception, all of its terms
and conditions, both express and implied.

2.

If the Contractor is in default of the Construction Contract and the Owner, by written notice to the
Contractor and the Surety, declares the Contractor to be in default and terminates the right of the
Contractor to proceed, the Surety shall thereupon promptly notify the Owner in writing as to which of the
actions permitted to the Surety in Paragraph 3 it will take.

3.

Upon default and termination of the Contractor and notice to the Contractor and Surety as provided in Paragraph 2 above, the Surety shall, within 30 days, proceed to take one or, at its option, more than one of the following courses of action:

(A) Proceed itself, or through others acting on its behalf, to complete full performance of the Construction Contract including, without limitation, correction of defective and nonconforming work performed by or on behalf of the Contractor. During such performance by the Surety, the Owner shall pay the Surety from its own funds only such sums as would have been due and payable to the Contractor in the absence of the default and termination.

(B) Applicable law permitting, and with the prior written consent of the Owner, obtain bids or proposals from contractors previously identified as being acceptable to the Owner, for full performance of the Construction Contract. The Surety shall furnish the Owner a copy of such bids or proposals upon receipt of same. The Surety shall promptly select, with the agreement of the Owner, the best responsive bid or proposal and shall promptly tender the contractor submitting it, together with a contract for fulfillment and completion of the Construction Contract executed by the completing contractor, to the Owner for the Owner's execution. Upon execution by the Owner of the contract for fulfillment and completion of the Construction Contract, the completing contractor shall furnish to the Owner a performance bond and a separate payment bond, each in the form of those bonds previously furnished to the Owner for the Project by the Contractor. Each such bond shall be in the penal sum of the (1) fixed price for completion, (2) guaranteed maximum price for completion, or (3) estimated price for completion, whichever is applicable. The Owner shall pay the completing contractor from its own funds only such sums as would have been due and payable to the Contractor under the Construction Contract as and when they would have been due and payable to the Contractor in the absence of the default and termination. To the extent that the Owner is obligated to pay the completing contractor sums which would not have then been due and payable to the Contractor under the Construction Contract, the Surety shall provide the Owner with such sums in a sufficiently timely manner that the Owner can utilize such sums in making timely payment to the completing contractor; or,

(C) Take any and all other acts, if any, mutually agreed upon in writing by the Owner and the Surety.

4.

In addition to those duties set forth hereinabove, the Surety shall promptly pay the Owner all loss, costs and expenses resulting from the Contractor's default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, liquidated or actual damages, as applicable, for delay in completion of the Project, and fees, expenses and costs incurred at the direction, request, or as a result of the acts or omissions of the Surety.

5.

In no event shall the Surety be obligated to the Owner hereunder for any sum in excess of the Penal Sum. As used in this Performance Bond, the term "Penal Sum" means the amount stated as the penal sum in the preamble of this Performance Bond, as that amount may be adjusted from time to time pursuant to Paragraph 6 below.

6.

The Surety waives notice of any changes to the Construction Contract including, without limitation, changes in the contract time, the contract price, or the work to be performed. If the total amount payable by the terms of the Construction Contract is increased to an amount in excess of the then current Penal Sum, then, automatically and without notice to or any action required of any party, the Penal Sum shall be increased as the total amount payable by the terms of the Construction Contract is increased.

7.

This Performance Bond is provided by the Surety for the sole and exclusive benefit of the Owner, together with its successors or assigns. No other party, person or entity shall have any rights against the Surety hereunder.

8.

Any and all notices to the Surety, the Contractor or the Owner shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

Surety: _____

Attn: _____
E-mail: _____
Phone: _____

Contractor: _____

Attn: _____

Owner: Gwinnett County Board of Education

Attn: _____

9.

Any statutory limitation, which may be contractually superseded, to the contrary notwithstanding, any action hereon may be instituted so long as the applicable statute of limitations governing the Construction Contract has not run or expired.

CONTRACTOR:

SURETY:

[Typed Name] [Seal]

[Typed Name] [Seal]

By: _____
[Signature]

By: _____
[Signature]

[Printed Name, Title and Address]

[Printed Name, Title and Address]



**STANDARD FORM OF AGREEMENT BETWEEN
OWNER AND CONTRACTOR**

AGREEMENT

made as of this ____ day of _____ in the year of Two Thousand _____.

BETWEEN

The Owner:

GWINNETT COUNTY BOARD OF EDUCATION
437 Old Peachtree Road
Suwanee, Georgia 30024

and the Contractor:
(Name and address)

The Project is:
(Name and location)

The Architect is:
(Name and address)

The Owner and Contractor agree as set forth below.

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, the current edition of the General Conditions of the Contract, Revision VIII dated August 30, 2013 (General, Supplementary, and other Conditions), Exhibit "A" Attachment, Drawings, Specifications, addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 3.1** The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The Date of Commencement will be stipulated by the Notice to Proceed

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

- 3.2** The Contractor shall achieve Substantial Completion of the entire Work not later than
(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

subject to adjustments of this Contract Time as provided in the Contract Documents.

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of _____ Dollars (\$ _____), subject to additions and deductions as provided in the Contract Documents.

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:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

4.3 Unit prices, if any, are as follows:

ARTICLE 5
PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Request for payment must be received by the Architect on or before the first day of the month. The architect will approve and send to the Owner's office by the eighth day of the same month in order for the Owner to make payment on the first Friday following the fifteenth of the same month. It shall be understood that if the Contractor's actual progress becomes more than ten percent (10%) behind the Contractor's anticipated progress, the Owner may direct the withholding of payments to the Contractor in an amount equal to the percent behind Contractor's anticipated progress, in addition to the normal 10% withheld.

- 5.3** Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- 5.4** Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- 5.5** Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
- 5.5.1** Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of _____ percent (_____ %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by the Change Order;
- 5.5.2** Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of _____ percent (_____ %);
- 5.5.3** Subtract the aggregate of previous payments made by the Owner; and
- 5.5.4** Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.
- 5.6** The progress payment amount determined in accordance with Paragraph 5.5 shall be further modified under the following circumstances:
- 5.6.1** Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, and additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.
- 5.7** Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.5.1 and 5.5.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

As provided by Code Section 13-10-80, as reproduced in Exhibit "A".

ARTICLE 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 except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 7
MISCELLANEOUS PROVISIONS

- 7.1** Where reference is made in this Agreement 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.
- 7.2** Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

- 7.3** Other provisions:

ARTICLE 8
TERMINATION OR SUSPENSION

- 8.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.
- 8.2** The Work may be suspended by the Owner as provided in Article 2.3 of the General Conditions.

ARTICLE 9

ENUMERATION OF CONTRACT DOCUMENTS

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

9.1.1 The Agreement, Articles 1 thru 9 (pages 1 thru 7). Standard Form of Agreement Between Owner and Contractor.

9.1.2 The General Conditions Articles 1 thru 17, pages 1 thru 41.

9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated _____, and are as follows:

Document	Title	Pages
-----------------	--------------	--------------

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
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9.1.5 The Drawings are as follows, and are dated _____ unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
---------------	--------------	-------------

9.1.6 The addenda, if any, are as follows:

Number

Date

Pages

Portions of addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:
(List here any additional documents which are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

This Agreement 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 Architect for use in the administration of the Contract, and the remainder to the Owner.

OWNER

CONTRACTOR

(SEAL)

GWINNETT COUNTY BOARD OF EDUCATION

(Name of Contractor)

By: _____
(Signature)

By: _____
(Signature)

J. Alvin Wilbanks, Superintendent
(Printed Name and Title)

(Printed Name and Title)



CAUTION: You should sign an original document which has this caution printed in red.

GWINNETT COUNTY BOARD OF EDUCATION
437 Old Peachtree Road NW, Suwanee, Georgia 30024

**ATTACHMENT
EXHIBIT "A"
TO STANDARD FORM OF AGREEMENT BETWEEN
OWNER AND CONTRACTOR**

Section 1. Article 1 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to general conditions affecting contracts for public works, is amended by adding at the end of said article a new Code section, to be designated as Code Section 13-10-80, to read as follows:

13-10-80

- (a) As used in this Code section, the term:
- (1) "Contractor" means a person having a direct contract with the Owner.
 - (2) "Lower tier subcontractor" means a person other than a contractor having a direct Contract with a subcontractor.
 - (3) "Owner" means the state, any county, municipal corporation, authority, board of education, or other public board, public body, department, agency instrumentality, or political subdivision of the state.
 - (4) "Owner's authorized contract representative" means the architect or engineer in charge of the project for the Owner or such other contract representative or Officer as designated in the contract documents as the party representing the Owner's interest regarding administration and oversight of the project.
 - (5) "Subcontractor" means a person other than an Owner having a direct contract with the Contractor.
- (b) In any contract for the performance of any construction project entered into on or after July 1, 1985, with an Owner, as defined in paragraph (3) of subsection (a) of this Code section. Such contract shall provide for the following:

After work has commenced at the construction site, progress payments to be made on some periodic basis, and at least monthly, based on the value of work completed as may be provided in the contract documents plus the value of materials and equipment suitably stored, insured, and protected at the construction site, and at the Owner's discretion such materials and equipment suitably stored, insured, and protected off site at a location approved by the Owner's authorized Contract representative when allowed by the contract documents, less retainage: and

- (2) (A) Retainage to a maximum of 10 percent of each progress payment; provided, however, that when 50 percent of the contract value including change orders and other additions to the contract value provided for by the contract documents is due and the manner of completion OR the contract work and its progress are reasonably satisfactory to the Owner's authorized contract representative, the Owner shall withhold no more retainage. At the discretion of the Owner and with the approval of the contractor, the retainage of each subcontractor may be released separately as the subcontractor completes his work.

(B) If, after discontinuing the retention, the Owner's authorized contract representative determines that the work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level. If retention is resumed by an Owner, the contractor and subcontractors shall be entitled to resume withholding retainage accordingly.

(C) At substantial completion of the work or such other standard of completion as may be provided in the contract documents and as the Owner's authorized contract representative determines the work to be reasonably satisfactory, the Owner shall within 30 days after invoice and other

appropriate documentation as may be required by the contract documents are provided pay the retainage to the contractor. If at that time there are any remaining incomplete minor items, an amount equal to 200 percent of the value of each item as determined by the Owner's authorized contract representative shall be withheld until such item or items are completed. The reduced retainage shall be shared by the contractor and subcontractors as their interests may appear.

(D) The contractor shall, within ten days from the contractor's receipt of retainage from the Owner, pass through payments to subcontractors and shall reduce each subcontractor's retainage in the same manner as the contractor's retainage is reduced by the Owner, provided that the value of each subcontractor's work complete and in place equals 50 percent of his subcontract value, including approved change orders and other additions to the subcontract value and provided, further, that the work of the subcontractor is proceeding satisfactorily and the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his work including any warranty work as the contractor in his reasonable discretion may require, including, but not limited to, a payment and performance bond.

(E) The subcontractor shall, within ten days from the subcontractor's receipt of retainage from the contractor, pass through payments to lower tier subcontractors and shall reduce each lower tier subcontractor's retainage reduced by the contractor, provided that the value of each lower tier subcontractor's work complete and in place equals 50 percent of this subcontract value, including approved change orders and other additions to the subcontract value and provided, further, that the work of the lower tier subcontractor is proceeding satisfactorily and the lower tier subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his work including any warranty work as the subcontractor in his reasonable discretion may require, including, but not limited to, a payment and performance bond.

(c) This Code section shall not apply to:

(1) Any contracts let by the Department of Transportation of this state for the construction, improvement, or maintenance of roads or highways in this state or purposes incidental thereto: or

(2) Any contracts whose value or duration at the time of the award does not exceed \$150,000.00 or 45 days in duration.

(d) Contract and subcontract provisions inconsistent with the benefits extended to contractors, subcontractors, and lower tier subcontractors by this Code section shall be unenforceable: provided, however, that nothing in this Code section shall render unenforceable any contract or subcontract provisions allowing greater benefits to be extended to such contractors, subcontractors, or lower tier subcontractors, the provisions and benefits of this Code section being minimal only.

(e) Nothing shall preclude a payer under this Code section, prior to making a payment, from requiring the payee to submit satisfactory evidence, including but not limited to all and/or any invoices, that all payrolls, material bills, and other indebtedness connected with the work have been paid.

In addition to the foregoing, before the Owner can implement the above amendment to the contract, a letter of consent from the Surety Company must be provided to the Owner ten (10) days prior to the contractor's request to the Owner to withhold no more retainage under the terms of Exhibit "A".

END OF EXHIBIT "A"