

# Project Manual and Bid Documents for:

## Baseball and Softball Dugouts

**(2) Each Baseball Dugouts Located at:**

Strath Haven Middle Sch  
200 S. Providence Road, Wallingford, Pa., 19086

**And (2) Each Softball Dugouts Located at:**

Strath Haven High School  
205 S. Providence Road, Wallingford, Pa., 19086

**Wallingford-Swarthmore School District**

**Attn: Bob Maloney, Director Buildings & Grounds**

**484-574-0247 cell Email: rmaloney@wssd.org**

**Spencer House**

**200 South Providence Road**

**Wallingford, Pa., 19086**

**Anticipated Project Start: June 17, 2024**

**Project Completion: NLT August 16, 2024**

## Small Construction Package

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**Softball and Baseball Dugouts**

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**THE BID DOCUMENTS INCLUDED IN THIS PROJECT MANUAL ARE INTEGRATED AND FORM THE ENTIRE BASIS FOR WHICH BIDDERS SHALL SUBMIT BIDS FOR THE [PROJECT]. BIDDERS SHALL CAREFULLY READ EACH AND EVERY BID DOCUMENT PRIOR TO SUBMITTING ITS BID TO FULLY UNDERSTAND THE OBLIGATIONS IT ASSUMES AND RIGHTS IT WAIVES BY SUBMITTING ITS BID AND PERFORMING THE CONTRACT, IF AWARDED.**

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**INVITATION TO BID**

**Separate Document**

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**INSTRUCTIONS TO BIDDERS**

**1. BID DOCUMENT AVAILABILITY**

A. The Bid Documents are available at no cost on the Wallingford-Swarthmore School District website (<https://www.wssd.org>), Our Departments > Operations > Current Bid Documents. The Bid Documents are made available only for the purpose of obtaining Bids for the Project. Their availability does not grant a license for any other purposes.

B. Upon receipt of Bid Documents, Bidders shall verify that the documents are complete. Bidder shall notify the District if the documents are incomplete or upon finding discrepancies or omissions in the Bid Documents. Bidder shall provide a mailing address and email address to the District for purposes of transmitting Addenda upon receipt of the Bid Documents. Each Bidder shall be responsible for the completeness of its set of Bid Documents. No allowance or concession will be made to a Bidder who complains of missing portions of Bid Documents or Addenda. All requests for clarifications must be in writing and received by the District by email to **Nick Cirilli** [ncirilli@comcast.net](mailto:ncirilli@comcast.net) and **Bob Maloney** [rmaloney@wssd.org](mailto:rmaloney@wssd.org), by no later than **3:00PM, February 16, 2024** [time and date]. All clarifications, modifications and corrections to the Bid Documents shall be issued in the form of Addenda and will be forwarded to Bidders that have previously supplied the District with a mailing and email address. Addenda listing revisions and changes to the Bid Documents shall become a part of and take precedence over the original Bid Documents and previously issued Addenda. Any information furnished related to the Project shall not be legally binding on the District unless issued in an Addendum.

**2. DEFINITIONS**

A. **Addenda**: Written and/or graphic instruments issued by the District prior to the Bid deadline which modify or interpret the Bid Documents by additions, deletions, clarifications, or corrections.

B. **Bid Deadline**: The date and time which the District will receive and open sealed Bids for the Project as identified in the Invitation to Bid.

C. **Bid Documents**: The bid documents include, without limitation, the Project Manual Table of Contents, Invitation to Bid, Instructions to Bidders, General Conditions of the Contract, Bid Bond Form, Agreement of Surety Form, Contract Form, Performance Bond Form, Payment Bond Form, Non-Collusion Affidavit Form, List of Statutes, Specifications, Drawings, Bid Form and any Addenda.

D. **Bid**: The completed Bid Form and all supplementary documents submitted by Bidder for the Work associated with this Project.

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E. Bid Security: A certified check, bank cashier's check, trust company treasurer's check, or Bid Bond prepared on the form contained in the Bid Documents used to guarantee the Bid.

F. Bidder: Person or entity submitting a Bid.

G. Base Bid: Monetary sum identified by Bidder on the Bid Form for the full performance of the Project in accordance with the Contract.

H. Contract Documents: The entire integrated agreement between the District and Contractor for the Project and includes, without limitation, the fully executed and complete Contract Form, the Instructions to Bidders, General Conditions of the Contract, Special Conditions of the Contract, executed Performance Bond, executed Payment Bond, executed Non-Collusion Affidavit, executed and completed Bid Form, List of Statutes, the Specifications and Drawings, and any authorized Change Orders issued after the execution of the Contract Form.

I. Contractor: Bidder to whom the Contract is awarded.

J. Detailed Cost Break-Down: An itemized list of all labor materials required to complete the Project and shall include, without limitation, the number of units of labor and materials to be installed and/or delivered and the price applicable each itemized component of labor and materials (which shall include, without limitation, charges for delivery, fuel, transportation, storage placement, handling charges, labor, overhead and profit and shall not be subject to escalation or surcharge during the term of the Contract) in a form acceptable to the District.

K. District: Wallingford-Swarthmore School District, its agents, employees, elected officials and/or authorized representatives.

L. District Parties: The District Parties include, without limitation, employees, elected officials, agents and retained professionals (including, without limitation, a construction manager, architect and/or the engineer, if any) (collectively, the "District Parties").

M. District Property: Shall mean any real property owned or operated by the District.

N. Project: the Nether Providence Elementary School Roof Replacement Project

O. Specifications: The drawings, plans and specifications included with the Bid Documents that provide the technical details of the services and products required to complete the Project.

P. Verification Form: The verification form required to be submitted to the District by contractors and subcontractors pursuant to the Public Works Employment Verification Act 43 P.S. §§ 167.1, *et seq.*)

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Q. Work: The construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**3. APPLICABILITY OF INSTRUCTIONS**

A. These Instructions to Bidders are a standardized listing of items generally applicable to Bids for contracted services entered into by the District. If a Bidder is unsure as to the applicability of a particular item, the Bidder should request clarification prior to the submission of a Bid.

**4. PREPARATION AND SUBMISSION OF BIDS**

A. Bidder shall be solely responsible for the delivery of its Bids in the manner and time prescribed. All Bids must be received by the District at the place designated in the Invitation to Bid no later than the Bid Deadline. Bids received after the Bid Deadline shall be returned to Bidders unopened.

B. By submitting its Bid, Bidder represents that it has read and understands the Bid Documents, including all Addenda; its Bid is based upon the labor materials, systems, and equipment required by the Specifications; and it is willing to accept performance of the Project for the amounts set forth in its Bid.

C. Bids shall be prepared and submitted on forms including in the Bid Documents. All blank spaces shall be filled in, by computer, typewriter, or blue ink. All prices are to be firm net prices and are to be F.O.B. destination, including, without limitation, charges for delivery, fuel, transportation, storage placement, handling charges, labor, overhead, and profit and shall not be subject to escalation or surcharge during the term of the Contract. Bidder warrants that its Base Bid includes a deduction(s) for all rebates and discounts (e.g., manufacturer and/or governmental) that may be available as a result of the District's purchase of the products, services, and/or Work set forth herein. On a separate sheet attached to the Bid Form, each Bidder shall identify such rebates and/or discounts that it will seek endorsement from the District associated with the goods identified herein.

D. Bids shall be irrevocable for sixty (60) days after the actual day of opening thereof unless delayed by the required approval of another governmental agency, the sale of bonds, or the award of a grant, in which case, Bids shall be irrevocable for one hundred twenty (120) days after the Bid Deadline. Extensions of the date for the award of contract may be made by the mutual written consent of District and the lowest responsible and responsive Bidder.

E. All construction, reconstruction, repairs, expansion, renovation, maintenance, or work of any nature, including the introduction of plumbing, heating and ventilating, or lighting systems, upon any District building or upon any property of the District, or upon any building or portion of a building leased by the District shall be done under separate contracts to be entered

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into by the District with the lowest responsive, responsible Bidder as required by of § 751 of the Pennsylvania Public School Code, as amended, 24 P.S. § 7-751.

F. Bidders are encouraged to visit the site on weekdays during normal business hours, only after arranging an appointment. Arrangements must be made at least 24 hours in advance by emailing Nick Cirilli [ncirilli@comcast.net](mailto:ncirilli@comcast.net) and/or Bob Maloney [rmaloney@wssd.org](mailto:rmaloney@wssd.org) .

G. The Bid Form shall be signed in accordance with the following:

(i) If the Bidder is an individual, the Bid shall be executed by the individual, personally; the individual's signature shall be witnessed; the individual's business address shall be stated, and any trade name employed in the conduct of the individual's business shall be stated.

(ii) If the Bidder is a partnership, the Bid Form shall be executed in the name of the partnership by each of the partners, or a general partner authorized for this purpose; the signatures of the partners shall be witnessed; and the business name and address of the partnership shall be stated.

(iii) If the Bidder is a corporation, the Bid Form shall be executed in its name and on its behalf: (a) by the President or Vice President and attested by the Secretary or Assistant Secretary, and the Corporate Seal shall be affixed; or (b) by a duly authorized agent of the corporation whose authority to act, as of the date of the Bid, shall be established by a certified copy of a resolution by the Board of Directors of the bidding corporation authorizing said agent to sign the Bid on behalf of the corporation, submitted with the Bid. The business address of the corporation and state of incorporation shall be stated.

(iv) If the Bidder is a joint venture, each party of the joint venture shall execute the Bid Form under their respective seals in a manner appropriate to such party as described above.

(v) If the Bidder is a limited liability company, the Bid Form shall be executed in its name and on its behalf by a member with authority to do so.

H. The Bid shall be accompanied by a completed Verification Form required by the Public Works Employment Verification Act (43 P.S. §§ 167.1, et seq.) acknowledging the Bidder's responsibilities and compliance with the Public Works Employment Verification Act. The Verification Form shall be obtained from the Secretary of the Pennsylvania Department of General Services and shall include a certification that the information is true and correct, subject to sanctions provided by law. The Verification Form shall be executed by a representative who has sufficient knowledge and authority to make the representations and certifications contained in the Verification Form.



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I. If the total Base Bid plus all additive alternates exceeds five thousand dollars (\$5,000.00), the Bid must be accompanied by an Agreement of Surety and Bid Security in the amount of ten percent (10%) of the total amount of the Base Bid plus any additive alternates drawn to the order of the District. If the Base Bid plus all additive alternates is five thousand dollars (\$5,000.00) or less, the Bidder will not be required to provide Bid Security for its Bid. If the Bidder receiving a Notice of Intent to Award fails to deliver to the District the executed Contract, Performance Bond, Payment Bond, Verification Form required by the Pennsylvania Employment Verification Act, Detailed Cost Break-Down (if required), and certificate of insurance evidencing the insurance coverages required by the General Conditions within ten (10) calendar days after receipt of the Notice of Intent to Award (a “Defaulting Bidder”), the District may apply the Bid Security toward the difference between the amount of the Bid of the Defaulting Bidder as accepted by the District and any higher amount for which the District may contract for the required Work, plus any advertising costs, legal fees, damages, penalties, and any and all other fees and expenses incurred by the District by reason of the failure of such Defaulting Bidder to comply herewith. If the amount of said damages exceeds the penal sum of the Bid Security, the Defaulting Bidder shall pay the District the full amount of the excess. If the District does not procure an executed contract with any other party for the performance of the Work within thirty (30) days after the acceptance of the Bid from the Defaulting Bidder, whether because of the lack of other Bids or the inability or refusal of any other Bidder to contract, or because the cost under any higher Bid would be greater than the District would afford, as determined in the sole discretion of the District, then in that event, the Defaulting Bidder and its Surety shall pay to the District the full amount of the Bid Security as liquidated damages and not as penalty.

J. The Bid shall be accompanied by an executed and completed Non-Collusion Affidavit and Bidder’s Qualification Statement.

K. All Bids shall be submitted in a sealed opaque envelope. All Bids must be marked on the outside envelope “Nether Providence Elementary School Roof Replacement Project” and addressed to **Bob Maloney**, Wallingford-Swarthmore School District, Operations Department, 200 Providence Rd., Wallingford, PA 19086. The envelope shall also contain a notation that it should not be opened until the time specified for Bid Deadline. Bid envelopes not bearing this notation and opened in error may be rejected by the District, in its sole discretion. If a Bidder elects to submit a Bid by mailing rather than hand delivery, the sealed Bid envelope described above shall be enclosed in a mailing envelope and addressed to the District, and must be received prior to the date and time specified for Bid opening.

L. By submitting a Bid, Bidder represents to the District the following:

(i) That it is financially solvent and experienced in and competent to perform the Work and to furnish the materials, supplies, or equipment required for the completion of the Project;

(ii) That it is familiar with all applicable federal, state, and local laws, ordinances, regulations, standards applicable to the Project;

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(iii) That the Work required by the Contract Documents can be satisfactorily constructed, and the Contract Documents are sufficiently detailed for Bidder to submit its Bid;

(iv) That it has carefully examined all Bid Documents and satisfied itself as to the nature and location of the Project, the character, quality and quantity of surface and sub-surface work and materials likely to be encountered, the character of equipment and other facilities necessary for the completion of the Project, and the general and local conditions that may affect the Bidder's performance of the Project.

**5. STANDARD OF QUALITY**

A. The various materials and products specified in the Specifications by name or description are given to establish a standard of quality and of cost for Bid purposes. It is not the intent to limit the Bidder to any one material or product specified but rather to describe the minimum standard. When proprietary names are used, they shall be followed by the words "or substitution meeting or exceeding the minimum standard of quality, as determined by the District as evidenced by Addenda." A Bid containing a substitution which does not meet the Specifications may be declared non-responsive. Where products or manufacturers are listed with the words "No Substitutions", these items are proprietary and the sole acceptable source for this Project, and no substitutions will be permitted.

B. No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the District by **(SEE LAST DAY FOR QUESTIONS, Section 1)** [insert date]. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including, but not limited to, drawings, cuts, performance test data, manufacturer's warranty and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other Work that result from the substitution shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The District's decision of approval or disapproval of a proposed substitution shall be final and binding.

C. If the District approves a proposed substitution (alternative) prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals in any other manner.

**6. MODIFICATION AND WITHDRAWAL**

A. Bids may not be modified after submittal. Bids may be withdrawn after submittal, provided the Bidder makes its request to withdraw in writing and the request is acknowledged by the District in writing prior to Bid Deadline.

B. Negligence by Bidder in preparing its Bid confers no right of withdrawal or modification of its Bid after such Bid has been opened. No claims on account of mistakes or omissions in any Bid will be considered.

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C. Notwithstanding the above, a Bidder may withdraw its Bid after such Bid has been opened in accordance with the causes set forth in the Pennsylvania Bid Withdrawal Act, Act No. 4 of 1974, 73 P.S. §1601, et seq. Strict compliance with said Bid Withdrawal Act is required to withdraw a Bid after the Bid Deadline.

**7. OPENING OF BIDS**

A. Bids will be publicly opened and read as stated in the Invitation to Bid. Bidders or their authorized agents may be present at Bid opening. The District shall have no obligation to notify any other person other than the lowest responsive, responsible Bidder of the District's intent to award the Contract.

**8. QUALIFICATIONS**

A. Prior to the award of Contract, District may require satisfactory evidence to show that the Bidder is fully prepared in every way to perform the Contract timely and that the Bidder has been regularly engaged in such business.

**9. COLLUSIVE BIDS**

A. More than one Bid for one Contract from an individual, partnership, corporation, or an association under the same or different names will be grounds for rejection of all Bids in which such Bidder is interested. Any and all Bids will be rejected if there is any reason for believing that collusion exists among any of the Bidders. Participants in such collusion will not be considered in future Bids.

**10. BID REJECTION OR AWARD**

A. The District reserves the right to reject any and all Bids, or parts of a Bid, when a rejection is in the District's best interest as determined by the District in its sole discretion. The District reserves the right to reject a Bid if the Bidder is not in a position to perform the Contract or has previously failed to perform similar contracts properly or on time as determined by the District in its sole discretion. If a Contract is awarded, it will be to the lowest responsive, responsible Bidder, provided such Bidder's Bid is reasonable and in the District's interest to accept.

B. Failure to provide Bid Security may result in rejection of Bid.

C. Bids not based on Bid Documents, those indicating a qualification of the Bid, conditions or uninvited alternates/substitutions, or which contain alteration of forms included in the Project Manual, may be rejected by the District in its sole and absolute discretion. In addition, Bids failing to adhere to the Specifications may be rejected by the District in its sole and absolute discretion.

D. Bids that are unsigned, improperly signed or sealed, or illegible, may be rejected by the District in its sole and absolute discretion.

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E. Bids where the prices are obviously unbalanced may be rejected by the District in its sole and absolute discretion.

F. All Bids shall conform with these Instructions to Bidders. Bids containing minor irregularities or informalities may be rejected by the District in its sole and absolute discretion. The District reserves the right to waive any such informalities or irregularities when a waiver is in the District's best interest.

G. In the event of a dispute between a Bidder and the District regarding the District's determination of which Bidder is the lowest responsive, responsible Bidder, such contesting Bidder shall be responsible for any legal fees (e.g., fees of attorneys, paralegals and other legal professionals), professional fees, and other costs or expenses incurred by the District to the extent the Bidder does not completely prevail in such contest. Furthermore, under no circumstances shall the District be responsible for any legal fees, professional fees, or other costs or expenses incurred by the contesting Bidder if the District decides not to award the Contract to such Bidder based upon the District's determination in its sole and absolute discretion that such contesting Bidder is not the lowest responsive, responsible Bidder.

H. Bidder agrees that it has prepared its Bid at its sole cost and expense. If, for any reason, the District rejects the Bidder's Bid, Bidder agrees that it shall not seek to recover expected profits or Bid preparation costs, nor make a claim of unjust enrichment against the District.

**11. AWARD OF THE CONTRACT**

A. It is the intent of the District to award the Contract to the lowest responsive, responsible Bidder provided that the Bid has been submitted in accordance with the requirements of the Bid Documents and does not exceed the funds available to the District.

B. The District reserves the right to award a Contract for one or more of the items set forth in the Specifications, or for all items set forth in the Specifications.

C. The District will notify the lowest responsive, responsible Bidder if the District intends to award the Contract ("Notice of Intent to Award"). Such Bidder shall complete and execute the Contract Form, Performance Bond, and Payment Bond in accordance with the amounts set forth in its Bid. Such Bidder shall also complete the Verification Form required by the Public Works Employment Verification Act (43 P.S. §§167.1, et seq.) acknowledging the Bidder's responsibilities and compliance with the Public Works Employment Verification Act. The Verification Form shall be obtained from the Secretary of the Pennsylvania Department of General Services and shall include a certification that the information is true and correct, subject to sanctions provided by law. The Verification Form shall be executed by a representative who has sufficient knowledge and authority to make the representations and certifications contained in the Verification Form. The executed Contract Form, Performance Bond, Payment Bond, Verification Form, Detailed Cost Break-Down (if required), and certificate of insurance evidencing the insurance coverages required by the General Conditions shall be submitted to the

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District by the Bidder within ten (10) calendar days of the date of the District's Notice of Intent to Award as a condition precedent to the award.

**12. PAYMENT AND PERFORMANCE BONDS**

A. For any Contract exceeding ten thousand dollars (\$10,000.00), Contractor shall furnish to District the following bonds:

(i) A performance bond in the amount of One Hundred Percent (100%) of the contract sum, conditioned upon the faithful performance of the Contract in accordance with the Contract shall be submitted. Such bond shall be executed on the form contained in the Bid Documents and shall be solely for the protection of District.

(ii) A payment bond in the amount of One Hundred Percent (100%) of the contract sum shall be submitted. Such bond shall be executed on the form contained in the Bid Documents and shall be solely for the protection of claimants supplying labor and materials to Contractor, or to any of Contractor's subcontractors, in the prosecution of the Work provided for in such Contract, and shall be conditioned upon the prompt delivery of such materials or products furnished or labor supplied or performed in the prosecution of the Work.

B. Each of the above-referenced bonds shall be executed by a surety named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570 (as amended) by the Audit Staff, Bureau of Governmental Financial Operations, U.S. Treasury Department, and the amount of the bonds shall not exceed the underwriting risk of the surety as set forth in said circular or revision thereof. The surety shall be licensed and qualified to do business in the Commonwealth of Pennsylvania. The bonds shall be accompanied by a power of attorney evidencing the authority of the agent of the surety to execute the bonds as of the date of the bonds.

C. For any Contracts ten thousand dollars (\$10,000.00) or less, the Contractor shall not be required to procure a performance bond or payment bond.

**13. DETAILED COST BREAKDOWN**

A. For any Contract exceeding Five Thousand Dollars (\$5,000), Contractor shall submit a Detailed Cost Breakdown (the total of which shall equal the full amount of the contract sum). The Detailed Cost Breakdown shall be submitted to the District within ten (10) calendar days of the date of the District's Notice of Intent to Award.

**14. RECEIVING HOURS**

A. All shipments are to be made to the District in accordance with the instructions forwarded to the successful Bidder by the District. All deliveries shall be made between the hours of 8:00 a.m. and 2:30 p.m., Monday through Friday, except on District holidays.

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**NOTICE: BIDS ARE PUBLICLY OPENED AND READ ON THE DATE SPECIFIED. IF YOU ARE INTERESTED IN IMMEDIATE INFORMATION RELATING TO THE BID, PLEASE HAVE A REPRESENTATIVE PRESENT AT BID OPENING. FOLLOWING BID OPENING, THE BIDS WILL BE REVIEWED BY THE APPROPRIATE AUTHORITIES OF AND FOR WALLINGFORD-SWARTHMORE SCHOOL DISTRICT. THEREFORE, INFORMATION ON THE BIDS WILL NOT AGAIN BE AVAILABLE UNTIL THEY HAVE BEEN REVIEWED AND A FINAL RECOMMENDATION IS PRESENTED TO THE BOARD OF SCHOOL DIRECTORS OF THE WALLINGFORD-SWARTHMORE SCHOOL DISTRICT AT ITS REGULARLY SCHEDULED MEETING.**

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**GENERAL CONDITIONS OF THE CONTRACT**

**1. APPLICABILITY OF THE GENERAL CONDITIONS OF THE CONTRACT**

These General Conditions of the Contract shall apply and be binding upon the District and Contractor awarded the Contract for the Project upon execution of the Contract Form by each party. All capitalized terms not defined in these General Conditions of the Contract shall have the same meaning set forth in the Instructions to Bidders. These General Conditions of the Contract are a standardized listing of items generally applicable to Contracts for contracted services entered into by the District. Where an item applies in limited cases, the same shall be noted as well as the conditions respecting applicability.

**2. FAMILIARITY WITH PROPOSED WORK**

The Contract is entered into by the District with the understanding that Contractor, prior to submission of its Bid, acquainted itself with the requirements of all Bid Documents and that it has obtained all necessary information for completion of the services or Project on or before the date(s) specified. The Contractor shall not at any time after the execution of the Contract set up any claims whatsoever based upon insufficient data or incorrectly assumed conditions, nor shall Contractor claim any misunderstanding in regard to the nature, conditions, or character of the services or Work to be performed or products to be supplied under the Contract, and Contractor shall assume all risk resulting from any changes in the conditions which may occur during the progress of the Work.

**3. COMPETENT WORKERS**

No person shall be employed to do Work under the Contract except competent and first class workers and mechanics. No worker shall be regarded as competent and first class within the meaning of the Educate America Act of 1994 or this provision except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours' worked as shall be the established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where the Contract is being performed.

**4. CASH ALLOWANCES.**

No cash allowances for any purposes are included in the Specifications for this Project.

**5. INSURANCE**

A. The Contractor shall purchase, maintain, and carry such liability insurance at its sole expense as set forth below to fully protect the District against all claims which may arise in connection with the Project. No Work shall be started until the District has been provided Certificates of Insurance executed by an insurer licensed and qualified to do business in the





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**6. WAIVER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES; ECONOMIC LOSS**

A. The Contractor waives claims against the District and the District Parties for consequential and/or incidental damages arising out of or relating to the Contract. This waiver includes, but is not limited to:

(i) Consequential damages incurred by Contractor for principal office expenses including, but not limited to, the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of actual and expected profits.

(ii) Incidental damages incurred by Contractor including, but not limited to, costs resulting from stopping performance under the Contract, removing and transporting Contractor's property (e.g., Contractor's equipment, supplies and materials) from the Project site, and storing Contractor's property (e.g., Contractor's equipment, supplies and materials) at an alternate location.

B. The above waiver is applicable, without limitation, to all consequential and/or incidental damages, due to the termination of the Contract by Contractor or the District.

C. The Contractor shall have no claim or right of recovery of damages against the District or the District Parties for economic loss sustained, in whole or in part, by any act or omission of the District Parties to the extent that such act or omission constitutes a breach of contract. Specifically, and without limiting the generality of the foregoing, Contractor shall have no claim against the District or the District Parties for economic loss based upon any tort, including, without limitation, negligence, negligent misrepresentation or any other tort-based theory of liability.

**7. FEES, PERMITS AND CERTIFICATIONS**

A. The Contractor shall pay for, secure, and provide all necessary and required local, state and federal fees, permits and certificates.

**8. TAXES**

A. Contractor hereby accepts and assumes full and exclusively liability for and shall pay all applicable sales, use, excise or other taxes required by law (collectively, the "Taxes") on all materials, tools, apparatus, equipment, fixtures, services, incidentals or otherwise which may be purchased or used in connection with the Work under the Contract or portions thereof, including, without limitation, all sales taxes, state and municipal taxes, business privilege taxes, use taxes, and all contributions and payroll taxes under the provisions of Federal law or the laws of the Commonwealth of Pennsylvania. Contractor's Bid was made in accordance with such laws and includes Taxes in the Base Bid. Notwithstanding the foregoing, however, certain items acquired as part of the Work may be exempt from the Taxes, and no charges shall be allowed for such exempt items. It shall be Contractor's responsibility to determine those items for which an

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exemption will apply, and Contractor shall obtain independent legal or other tax advice to determine how and to what extent an exemption from Taxes applies. In order to facilitate purchases free of sales and/or use tax in the Commonwealth of Pennsylvania, and upon certification by Contractor that an item is, in fact, tax exempt, the District agrees to execute a tax exemption certificate prepared by Contractor or a subcontractor as may be required by the regulations of the Pennsylvania Department of Revenue. In the event that Contractor pays Taxes not properly due, the District shall be entitled to any refund relating thereto and Contractor agrees to assign any and all rights to said refund to the District. It is further agreed that the District shall have the right to deduct the amount of any and all such Taxes from the compensation owed to Contractor under the terms of the Contract at any time, in the District's sole discretion, as the District deems advisable, it being agreed that the District shall have the right to deduct any and all such Taxes from the next payments due under the Contract and from the retained percentages. The District or its representatives shall be afforded access to all Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, certifications, and similar data relating to the Contract, and Contractor shall preserve all such records for a period of three (3) years, or for such longer period as may be required by law, after final payment. Further, the District or its representative shall have the authority, but not the obligation, to require Contractor to provide the District with certified payroll records for the labor furnished by Contractor in connection with the Work.

**9. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall, immediately upon demand, indemnify, defend, and hold harmless the District (with legal counsel selected by the District), and the District Parties from and against any and all claims, suits, demands, liabilities, damages, losses, taxes and expenses, including, without limitation, professional fees and legal fees and costs, arising out of or resulting from Contractor's performance of the Contract, including, without limitation, claims, suits, demands, liabilities, damages, losses, taxes, and expenses attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property, including, without limitation, loss of use resulting therefrom, caused in whole or in part by acts or omissions or negligence of Contractor, its subcontractors, their respective officers, employees, agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, suit, demand, liability, damage, loss, tax, or expense is caused in part by the District. The indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor or a subcontractor under workers' compensation acts, disability benefits, or other employee benefit acts.

**10. TIME PERIOD FOR PERFORMANCE OF WORK**

A. The date set for Final Completion of the Contract is designated in the Contract. Milestones may be set forth in the specifications or a project schedule submitted by Contractor and approved by the District after the award of the Contract. Time is of the essence in performing all services or Work and/or supplying all products required by the Contract.

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Provisions for liquidated damages in the event of any delay in completing the Contract may be set forth in the Specifications.

B. Contractor agrees that any installation Work requiring the interruption of water supply or electricity to the school building shall occur on a date when the students are not in the building.

C. Within ten (10) days of notification to proceed with the Project, Contractor shall provide the District with a Project schedule identifying the commencement and milestone dates for completion of components of the services or Work and/or delivery of products required by the Contract for the District's review and approval. The Contractor shall perform the Work in strict accordance with the latest approved Project schedule.

D. In the event Contractor shall neglect or refuse to complete the Project as required, or any part thereof, or to replace or re-perform any service or Work and/or product which is rejected, then the District is authorized and empowered to purchase materials, equipment, and services from third parties, and in such manner as it shall elect at the expense of Contractor, or to cancel the Contract; reserving to itself, nevertheless, all rights for damages, including, without limitation, legal fees, legal costs, and additional architectural, engineering, or other design costs, which may be incurred by the District.

E. If Contractor is delayed at any time in the progress of the Work by any act or neglect of the District, its agents, employees, retained professionals (including, without limitation, a construction manager, architect, and/or engineers, if any), any separate Contractor employed by the District, or by changes ordered in the Work, labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipated, unavoidable casualties, or by any other cause beyond the control of Contractor, Contractor's exclusive remedy shall be an extension of time allowed for final completion of the Work under the Contract. This extension of time shall not act as an entitlement for damages due and owing Contractor for said delay. Under no circumstances shall Contractor be entitled to claim or recover payment, compensation, or damages for any delays from any cause whatsoever in the progress of the Work, notwithstanding whether such delays be avoidable or unavoidable.

**11. PAYMENT**

A. Contractor will be paid according to the schedule below, provided all services or Work and/or products which payment is requested has been completed in accordance with the Contract and Contractor is in full compliance with all requirements of the Contract. Invoices must be received by the end of each calendar month, and will be authorized for payment by the Board of School Directors for the District at the following calendar months' regular meeting.

Amount of Contract	Payment Schedule
Under \$5,000	100% upon completion of specified Work.

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\$5,000 to \$20,000	Upon completion of 50% of specified Work, respective payment amount shall be made, less retainage. Upon completion of 100% of specified Work, remaining payment amount shall be made. Payments shall be subject to conditions of paragraph B hereof.
\$20,001 to \$50,000	Upon completion of 25%, 50% and 75% of Work, respective payment amount shall be made, less retainage. Upon completion of 100% of specified Work, remaining payment amount shall be paid. Payments shall be subject to paragraph B hereof.
Over \$50,000	Payments shall be made monthly upon completion of specified Work, less retainage.

B. For any Contract from Five Thousand Dollars (\$5,000) to Fifty Thousand Dollars (\$50,000), payment will be made only after the Detailed Cost Breakdown has been provided by Contractor and approved by the District. Payments shall be made only for Work completed according to the Detailed Cost Breakdown. Five percent (5%) retainage shall be withheld by the District for all payments prior to final completion. Upon final completion to the satisfaction and acceptance by the District, in the District’s sole and absolute discretion, final payment, including retainage, shall be made.

C. For any Contract in excess of Fifty Thousand Dollars (\$50,000):

(i) Payment will be made only after the Detailed Cost Breakdown has been provided by Contractor and approved by the District. Payments shall be made only for Work completed according to the Detailed Cost Breakdown. **Retainage in the amount of ten percent (10%)** of the value of the completed Work, based on monthly progress payments, shall be withheld by the District from each monthly payment until the Work has achieved 50% completion. Except as otherwise provided herein, when the Work for the Specified Project is fifty percent (50%) completed, one-half (1/2) of the amount retained by the District shall be returned to Contractor, provided that Contractor is making satisfactory progress and that there is no specific cause for greater withholding.

(ii) Notwithstanding the foregoing, the District may continue to withhold ten percent (10%) of the amount due Contractor after the Contract is fifty percent (50%) completed if the District determines in its sole and absolute discretion that there is a specific cause for greater withholding. A specific cause for greater withholding shall include, without limitation, the following:

(1) The Contractor’s inability to produce evidence satisfactory to the District evidencing payments for materials, labor, and/or payments to Subcontractors, manufacturers or suppliers;

(2) The existence of a dispute between the District and Contractor regarding increased costs claimed by such Contractor; or

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(3) A Contractor's failure to complete the Work in accordance with the Contract, including, without limitation, the Plans and Specifications, etc.

D. If a specific cause for greater withholding does not exist after the Work is fifty percent (50%) completed, the amount retained from each monthly payment shall be reduced to five percent (5%) of the value of the completed Work based on monthly progress payments.

E. In the event a dispute arises between the District and Contractor, the District shall have the option as it deems necessary in its sole and absolute discretion to withhold additional retainage over and above the amount already retained by the District in the sum of one and one-half (1-1/2) times the amount of any possible liability until such time as a final resolution is agreed to by all parties directly or indirectly involved.

F. The Contractor shall retain the right to collect any proceeds from the rebates or discounts (e.g., manufacturer or governmental incentives) specifically enumerated in an attachment to Contractor's Bid Form. The District shall retain the right to collect any proceeds from any rebates or discounts not specifically enumerated in an attachment to Contractor's Bid Form. The Contractor and District will cooperate with the each other in applying for all rebates or discounts that may be available for the purchase of the services or Work and/or products identified herein.

**12. ACCESS CLEAN-UP/DAMAGE TO PREMISES.**

A. Prior to entering District Property, Contractor shall notify **Bob Maloney**, Director Buildings & Grounds at **(484)-574-0247 cell** so that the District can notify Contractor of any security requirements and make appropriate arrangements to accommodate Contractor's Work.

B. Where Work is to be performed by Contractor on District Property, Contractor shall keep the District's premises free from accumulation of waste materials or rubbish caused by Contractor's performance. At Final Completion of the Work, Contractor shall remove from and about the premises, all waste materials, rubbish, Contractor's tools, construction equipment, machinery and surplus materials. If Contractor fails to clean up as provided herein, the District may do so, and the costs thereof shall be paid by Contractor upon demand.

C. Contractor shall promptly remedy damage and loss to any District building or equipment caused in whole or in part by Contractor, its subcontractors, or anyone directly or indirectly employed by them.

**13. CORRECTION OF WORK**

A. The District shall have the right to reject Work that does not conform to the Contract Documents. The Contractor shall promptly remove and replace and/or correct non-conforming Work.

**14. WARRANTY**

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A. Materials must conform to the manufacturer's standards in effect as of the date of execution of the Agreement and must be installed in strict accordance with the manufacturer's direction. The Contractor shall, if required by the District, furnish satisfactory evidence as to the kind and quality of any materials.

B. The Contractor shall transfer any manufacturer's warranty to the District upon Final Completion. Contractor shall ensure that it does not jeopardize the enforceability of the manufacturer's warranty through its acts or omissions in connection with the Work.

C. All services or Work and products shall be guaranteed by Contractor against defects in workmanship and materials for a period of two (2) years from the date of final payment by the District (the "Warranty Period").

D. Contractor shall promptly remedy, at Contractor's expense, any defects that were caused, in the reasonable judgment of the District, by defective or inferior workmanship or materials during the Warranty Period.

**15. ASSIGNMENT**

A. The Contractor shall not sell, transfer, assign, or otherwise dispose of the Contract, or any portion thereof, or of its right, title, or interest therein without the written consent of the District.

B. Subject to the limitation on assignment set forth above, the Contract shall bind and inure to the benefit of the heirs, legal representatives, successors, and assigns of both parties hereto.

**16. GOVERNING LAW**

The Contract shall be governed by the law of the Commonwealth of Pennsylvania, without regard to principles of conflict of laws.

**17. CLAIMS AND DISPUTES**

A. Claims, disputes, or other matters in question between the parties to the Contract arising out of or relating to the Contract or breach thereof shall be exclusively litigated in the Court of Common Pleas of Delaware County and shall not be subject to arbitration, except for compulsory arbitration as provided by the Delaware County Civil Rules, if applicable.

B. Pending resolution of any claim and/or dispute, unless otherwise agreed in writing, Contractor shall proceed diligently with performance of the Contract so as to avoid delay in the schedule of completion of the Project.

C. To the extent Contractor pursues a claim or litigation against the District and the District prevails, partially or completely, on any or all of its own claims or defenses to Contractor's claims, leaving Contractor with less than one hundred percent (100%) recovery,

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Contractor will be liable for any and all legal fees, professional fees, costs, or expenses of the District, as well as the true cost of any of the District's employees' time, associated with analyzing any claim, pursuing litigation or defending the claim or litigation. Further, to the extent any Contractor makes an excessive number of claims, which excessiveness shall be determined solely in the discretion of the District, and the District incurs any legal fees, professional fees, expenses, costs (including, but not limited to, employee cost), Contractor shall be liable for such fees, expenses, or costs. In the event of a dispute between Contractor and the District, to the extent that the District incurs any legal fees, professional fees, or other costs or expenses, Contractor will be responsible for those amounts, which will be deducted, to the extent available, from any amount due Contractor. If the amount due Contractor is not sufficient to cover such cost, Contractor shall pay the difference to the District within seven (7) days of receipt of the District's invoice for such legal fees, professional fees, or other cost or expenses.

**18. WAIVER OF CLAIMS**

The acceptance of final payment shall constitute a waiver of all claims by Contractor against the District other than those previously made in writing and specifically identified by Contractor as unsettled at the time of application for final payment.

**19. WAIVER**

No waiver of any term or condition of the Contract Documents shall be valid or binding on either party unless the same shall have been mutually assented to in writing by both parties. The failure of either party to enforce at any time any of the provisions of the Contract Documents, or the failure to require at any time performance by the other party of any of the provisions of the Contract Documents, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of either party to enforce each and every such provision thereafter.

**20. TERMINATION OF CONTRACT**

Upon ten (10) days written notice to Contractor, the District may, with or without cause and without prejudice to any other right or remedy, elect to terminate the Contract. Upon receipt of written notice from the District of such termination, Contractor shall cease operations as directed by the District in the notice; take actions necessary, or as the District may direct, for the protection and preservation of the Work or products; and except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing contracts, subcontracts and purchase orders and enter into no further contracts, subcontracts and purchase orders. In case of such termination, where Contractor is without fault, Contractor shall be entitled to receive payment from the District for all satisfactorily services or Work and/or products completed prior to termination.

**21. FORCE MAJEURE**

The Contractor agrees that its failure to comply with any of the terms and conditions of the Contract Documents shall be grounds for termination of the Contract by the School District in

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accordance with the terms set forth in the Contract Documents. Notwithstanding the foregoing, if the performance by either party hereto of its respective non-monetary obligations of the Contract is delayed or prevented in whole or in parts by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties (other than strikes or labor difficulties by Contractor's employees), or any law, rule regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within said Party's control, whether or not specifically mentioned herein, such party shall be excused, discharged and released of performance only to the extent such performance or obligation is so delayed or prevented by such occurrence without liability of any kind.

**22. PENNSYLVANIA PROMPT PAY ACT**

Contractor hereby waives any rights that Contractor has or may have under the Pennsylvania Prompt Pay Act, 62 Pa. C.S.A. § 3931, et seq., as amended from time to time.

**23. COMPLIANCE WITH LAWS**

A. Generally. Contractor shall comply with all applicable federal, state, local, and industry statutes, regulations, ordinances, codes, and standards. The specific statutory requirements enumerated in this Section shall not limit the generality of the foregoing sentence or be construed as an exhaustive enumeration of Contractor's obligations under applicable laws. The failure to specifically reference or include said matters in the Contract does not excuse Contractor from compliance with same.

B. Hazardous Materials. Each Contractor supplying or using any materials containing any hazardous substance listed on the Hazardous Substance List compiled by the Commonwealth of Pennsylvania, Department of Labor & Industry, must furnish appropriate material safety data sheets for all products for this Project. The District reserves the right to require Contractor to use alternative products if, in the District's sole discretion, the product is too hazardous to be used in a public school. The Contractor shall comply with all other terms and conditions of the Pennsylvania Worker and Community Right-to-Know Act, Act No. 159 of 1984, 35 P.S. § 7301 et seq., providing all information regarding the composition of all materials and products used or installed as part of the Project when required.

C. Human Relations. Contractor shall comply with the Pennsylvania Human Relations Act, 43 P.S. § 951 *et seq.*, which prohibits discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employers, employment agencies, labor organizations, contractors, and others. Contractor's attention is directed to the language of the Commonwealth Non-Discrimination Clause as set forth in 16 Pa. Code § 349.101.

D. Pennsylvania Uniform Construction Code. The Contractor shall comply with all requirements of the Pennsylvania Uniform Construction Code, 35 P.S. § 7210.301 – 7210.304.



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E. Prevention of Environmental Pollution. Section 3301 of the Pennsylvania Commonwealth Procurement Code requires that all solicitations for construction projects issued by any governmental agencies set forth any provision of Federal and State statutes, rules, and regulations dealing with prevention of environmental pollution and the preservation of public natural resources that affect the Project. In this regard, attached to the Bid Documents is a List of Statutes. Contractor is hereby notified and agrees to comply with the terms of all statutes, rules and regulations that affect the Project, including, without limitation, those identified in these General Conditions of the Contract and in the List of Statutes attached to the Project Manual. Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

F. Site Excavation. To the extent applicable, Contractor shall comply with all rules and regulations of Chapter 102, Title 25 of the Pennsylvania Code relating to soil erosion and sedimentation control. Prior to any grading, Contractor shall obtain approval from the Department of Environmental Protection or County Conservation Commission for an approved sedimentation and erosion control site plan and shall perform all necessary site work in accordance with said plan. The plan shall be available at the site at all times. The Contractor shall maintain all devices as required to control erosion caused by storm water and prevent dust and particles from being distributed on site. Contractor shall request the location and type of utility lines at the Project site by notifying utility owners through the one call system as defined in 73 P.S. § 176. Notification shall be not less than three (3) business days nor more than ten (10) business days in advance of beginning excavation or demolition work. No Work shall begin earlier than the scheduled excavation date which shall be on or after the third business day after notification.

G. Aluminum and Steel Products. The Contractor shall strictly comply with all requirements of the Pennsylvania Steel Products Procurement Act, 73 P.S. § 1881, *et seq.*, and Trade Practices Act, 71 P.S. § 773.101, *et seq.*, with respect to any steel aluminum or cast iron product (including machinery and equipment) used in connection with the Project.

H. Discrimination Prohibited. According to 62 Pa. C.S. § 3701, Contractor agrees to comply with and require subcontractors to comply with the following:

(i) In the hiring of employees for the performance of Work under the Contract, or any subcontract, no contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall, by reason of gender, race, creed, or color, discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the Work to which the employment relates.

(ii) No Contractor, subcontractor, or any person acting on their behalf, shall in any manner discriminate against or intimidate any employee hired for the performance of Work under the Contract on account of gender, race, creed, or color.

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(iii) The Contract may be canceled or terminated by the District and all money due or to become due under the Contract may be forfeited, for a violation of the terms or conditions of 62 Pa. C.S. § 3701.

(iv) Contractor and each subcontractor or any person acting on their behalf shall furnish necessary employment documents and records to and permit access to their books, records, and accounts by the District and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with the terms or conditions of the Contract. If Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, Contractor or subcontractor shall furnish such information on reporting forms supplied by the District or the Bureau of Contract Administration and Business Development.

I. Public Works Employment Verification Act. Contractor shall cause each subcontractor (as defined in the Public Works Employment Verification Act) to submit to the District a separate and complete Verification Form, executed by a representative who has sufficient knowledge and authority to make the representations and certifications contained in the Verification Form required by the Public Works Employment Verification Act, 43 P.S. §§ 167.1 *et seq.*, for before performing any Work on the Project.

J. Pennsylvania Prevailing Wage Rates. If required by applicable laws, the Prevailing Wage Rates, as determined by the Secretary of the Department of Labor and Industry, Prevailing Wage Division of the State of Pennsylvania, for the locality of the Work and for each classification of workers needed to perform the Contract shall be paid to all workers performing labor for the Project. The provisions of the Pennsylvania Prevailing Wage Act, 43 P.S. § 165.1, *et seq.*, regulations and the Pennsylvania Prevailing Minimum Wage Rates, as determined by the Secretary of Labor and Industry, are made part of all said Contract.

K. Criminal History and Child Protective Services Information. Prior to any employee of Contractor, or an employee of Contractor's subcontractors or material suppliers, if any, enters upon District Property to perform any Work in connection with the Project, Contractor shall provide the District with a complete:

(i) Original report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the Pennsylvania State Police central repository contains no such information relating to any of Contractor's employees or its subcontractor's employees working on the Project site prior to such persons performing Work at the Project site. Such report of criminal history shall be dated no more than one (1) year prior to the date of execution of this Agreement. To obtain this document, contact the nearest Pennsylvania State Police barracks.

(ii) Copy of the Federal Criminal History record from the Federal Bureau of Investigation in the manner prescribed by the Department of Education. To obtain such a report, contact the nearest FBI Field Office.

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(iii) Original background check in accordance with Section 111 of the Public School Code of 1949, 24 P.S. Section 1-111, et seq., on the form published by the Pennsylvania Department of Education.

(iv) Official clearance statement obtained from the Pennsylvania Department of Public Welfare pursuant to Act 151 of December 16, 1994 (P.L. 1292), subchapter C.2 of the Child Protective Services Law, as amended from time to time.

L. Prohibited Employment. The Contractor and its subcontractors shall refuse to employ any person as an independent contractor or employee whose Federal Criminal History record information indicates that such prospective employee has been convicted within five (5) years immediately preceding the date of the report of any of the following offenses:

(i) An offense under one (1) or more of the following provisions of Title 18 of the Pennsylvania Consolidated Statutes:

- Chapter 25 (relating to criminal homicide).
- Section 2702 (relating to aggravated assault).
- Former section 2709(b) (relating to stalking).
- Section 2709.1 (relating to stalking).
- Section 2901 (relating to kidnapping).
- Section 2902 (relating to unlawful restraint).
- Section 3121 (relating to rape).
- Section 3122.1 (relating to statutory sexual assault).
- Section 3123 (relating to involuntary deviate sexual intercourse).
- Section 3124.1 (relating to sexual assault).
- Section 3125 (relating to aggravated indecent assault).
- Section 3126 (relating to indecent assault).
- Section 3127 (relating to indecent exposure).
- Section 4302 (relating to incest).
- Section 4303 (relating to concealing death of child).
- Section 4304 (relating to endangering welfare of children).
- Section 4305 (relating to dealing in infant children).
- A felony offense under Section 5902(b) (relating to prostitution and related offenses).
- Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
- Section 6301 (relating to corruption of minors).
- Section 6312 (relating to sexual abuse of children).

(ii) An offense designated as a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) An out-of-State or Federal offense similar in nature to those crimes listed above.

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**24. INTERPRETATIONS.**

A. The captions and headings of various Paragraphs in the Contract are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

B. The invalidity of any covenant, restriction, condition, limitation, or any other part or provision of the Contract shall not impair or affect in any manner the validity, enforceability, or effect of the remainder of the Contract.

**25. TOBACCO/ALCOHOL USE.**

A. Contractor's agents, representatives, and employees shall not smoke within the limits of the District's property boundaries or as otherwise required by Federal legislation, Title X, P.L. 103-227, Goal 2000, Educate America Act of 1994 as amended from time to time, including without limitation, 20 U.S.C.A. Section 6081, et seq., the Pro-Children Act of 1994. Nothing in the Educate America Act of 1994 or the codification of same in the Pro-Children Act of 1994 shall preempt any provision of law of a state or political subdivision of a state that is more restrictive. Contractor's agents, representatives, and employees shall not possess or consume alcoholic beverages when within the limits of the District's property boundaries.

**26. DISTRICT POLICIES.**

A. Contractor's agents, representatives, and employees shall observe all applicable, publicly available District Board policies.

**27. BEHAVIOR**

A. Contractor's agents, representatives, and employees shall refrain from (1) speaking to or interacting with the District's students; (2) using inappropriate language in the school setting; (3) using the District's facilities; (4) littering; (5) possessing or consuming alcohol, illegal drugs, or firearms; (6) playing music without using personal headphones or earbuds; and (7) littering.

B. The District reserves the right to remove any of Contractor's agents, representatives, or employees from the Project site based for failing to comply with District Board policies, applicable law, or the requirements of the Contract Documents.

[END OF DOCUMENT]

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**SPECIAL CONDITIONS OF THE CONTRACT**

**1. EXPERIENCE**

A. The Contractor shall be experienced in Dugout Construction. This shall be demonstrated by providing evidence from **three (3) owner references from the past three years.**

B. The Contractor's proposal must include manufacturer's certification, project references, a description of proposed materials, preliminary schedule, list of sub-contractors, and sample warranties. Contractor understands that these factors will be considered when determining the successful bidder. **Bids without this information will be considered non-responsive.**

**2. DETAILED SCHEDULE**

A. Within ten (10) days of receipt of the notice of intent to award the Contract, the Contractor shall submit to the District a **detailed schedule**. The **detailed schedule** shall state the start week, and the estimated number of days required for each element of the Work, paying close attention to minimizing disruption to ongoing activities. The Contractor shall also submit a list of sub-contractors, if any, with the schedule.

**3. EXAMINATION OF DRAWINGS AND SPECIFICATIONS**

A. The Bidder is required to check all dimensions and quantities of the Drawings, Specifications, Plans, or Schedules provided in the Bidding Documents. The Bidder shall notify the Engineer of all errors, omissions, conflicts, and discrepancies found therein which may be discovered by examining and checking the Drawings, Specifications, Plans, or Schedules. The Contractor shall not rely on any errors, omissions, conflicts, or discrepancies in the Bidding Documents to request an increase in the contract sum.

B. The Contractor shall immediately bring to the attention of the District any errors, omissions, or discrepancies identified in any of the Drawings, Specifications, Plans, or Schedules. The Engineer will consider the Contractor's assertions regarding errors, omissions, or discrepancies and determine whether any modifications need to be made to the Drawings, Specifications, Plans or Schedules. The Contractor shall perform the Work in accordance with any Engineer-modified documents.

C. Notwithstanding the foregoing or anything in the Contract Documents to the contrary, the Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or

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procedures may not be safe, the Contractor shall give timely notice to the District and Engineer, and shall propose alternative means, methods, techniques, sequences, or procedures. The Engineer shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Engineer objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.,

D. Figures marked on the Drawings and Plans shall, in general, be followed in preference to scale measurements. Large scale drawings shall, in general, govern conditions already established.

E. The Contractor shall depend entirely on measurements by itself, scaled and figured dimensions on the Drawings, Specifications, or Plans to the contrary notwithstanding, but no deviation from the specified dimensions will be allowed unless authorized by the Engineer.

**4. DESCRIPTION OF WORK**

A. The Contractor acknowledges that any description or scope of the Work does not reflect all the work required to complete the Project, but merely outlines the major elements of the Work.

B. Prices proposed shall include all ancillary items of Work whether indicated on the plans and specifications or not, including coordination of Work with ongoing activities at the facility and preventing damage or disturbance to portions of the facility outside the immediate work area.

**5. STORAGE OF MATERIALS**

A. The Contractor shall be solely responsible for the proper storing and protecting of all materials to be incorporated into the Work, tools and equipment. The District shall not be responsible for any missing or damaged items.

**6. SHOP DRAWINGS**

A. Shop drawings, material specifications and/or field layouts are required for all items of Work.

B. The approval of shop drawings and layouts submitted by the Contractor shall not constitute a waiver of any of the requirements of the Contract Documents, nor shall the School District be compelled to accept any structure, equipment, or apparatus unless it passes all the tests and requirements of these Specifications. The approval of shop drawings shall be general and shall not relieve the Contractor of responsibility for the accuracy of such shop drawings, nor for the proper fitting and construction of the Work.

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C. Checking of shop drawings is only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. The Contractor is responsible for dimensions to be confirmed and correlated at the job site and for information that pertains solely to the fabrication process or to techniques of construction.

D. The procedure in seeking approval of shop drawings being submitted by the Contractor shall be as follows:

(i) Contractor shall submit two prints of the shop drawings to the Engineer for his approval. The shop drawings shall be accompanied by a letter of transmittal, in duplicate, containing the name of the Project, the name of the Contractor, the number of drawings, titles, and other requirements. Unless otherwise specified, such shop drawings shall be submitted at least fourteen (14) calendar days before they are required for fabrication of the materials by the Contractor or supplier. This time requirement may be reduced only by the written authorization of the Engineer.

(ii) If the shop drawing is acceptable to the Engineer, it will be stamped "Approved" and be dated, and one copy thereof will be returned to the Contractor. The Contractor shall then insert date of the approval on the record document and promptly furnish the Engineer with additional prints of the approved drawings.

(iii) When a shop drawing is generally acceptable to the Engineer, but requires correction of minor details, the Engineer will note thereon the corrections required, stamp the shop drawing "Approved as Corrected," and return one copy to the Contractor. The Contractor shall thereupon make the corrections indicated and promptly furnish the Engineer with two additional prints of the approved shop drawings.

(iv) Should a shop drawing be unacceptable to the Engineer, he will stamp the shop drawing "Revise and Resubmit" and will return a copy to the Contractor with the portions to be revised indicated. The Contractor shall make the revisions and resubmit prints of the revised drawings for approval.

(v) Should a shop drawing be submitted that is unacceptable to the Engineer or that does not conform to the Drawings and Specifications, the Engineer will note the unsatisfactory portions, stamp the shop drawing "Not Approved," and return to the Contractor. The Contractor shall make such revisions as are required, and submit two prints of the corrected shop drawings for approval.

(vi) Shop drawings shall be complete to permit adequate checking. All shop drawings relating to a specific piece of equipment, or to a specific phase of building construction, shall be incorporated into one shop drawing submission. Shop drawing submissions which do not conform to the above requirements will be rejected.

(vii)

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**J. Drawings to be Furnished by Contractor (when applicable)**

The Contractor shall furnish the Engineer detailed drawings of structures and equipment which are to be incorporated into permanent construction, and which are not furnished by the Engineer. Such tracings and prints, as required, shall become the property of the School District.

The Contractor shall provide the Engineer with information and drawings showing the arrangement and location of temporary structures, bracing, sheeting, and equipment, and the Contractor shall not erect or install any such temporary structures without the approval of the Engineer.

**7. SITE MEETING**

A. The Contractor shall schedule a pre-job meeting to review the Work scope, site conditions, and required procedures and practices prior to beginning work. The meeting must include the District's representative, the Engineer, and the manufacturer's representative.

**8. DIFFERING SITE CONDITIONS**

A. A Change Order is the formal verification of a change in the scope of Work or terms of the Contract. If the Contractor finds that unknown, pre-existing conditions, changed conditions, or some other factor make modifications in the requirements, amount, quantity, or quality of the Work necessary or desirable, the Contractor shall submit a request for a Change Order that describes how the site conditions are different or how the existing conditions were not discoverable before the Bid opening, the effect of the difference on the Work, and the change in the contract sum and/or contract time as a result of the change.

B. Any Change Order request must be reviewed and approved by the District prior to the commencement of any change in the Work outlined on the request. No extra work of any nature should be performed unless an itemized estimate has been approved by the District.

**9. INSPECTION AND TESTING**

A. The Contractor shall furnish all tests, at its own expense, performed by a reliable testing laboratory approved by the Engineer as directed in the Specifications or Contract Documents and whenever directed to do so by the Engineer.

B. All expenses (unless otherwise provided for in the Specifications) caused by the inspection of any material or equipment shall be borne by the Contractor when certified by the Engineer and by the Owner's representative. The Engineer is the sole judge if it is necessary that any materials or equipment be inspected at the mill.



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C. Satisfactory documentary evidence that material has passed the required inspection and testing must be furnished to the Engineer prior to its incorporation in the Work, and rejected materials must be promptly removed from the premises.

**10. HOURS OF WORK AND SAFETY**

A. No work shall take place between the hours of 7:00pm and 8:00am Monday to Friday unless approved by the District in advance.

B. Contractor must receive advance approval from the School District for any work on Saturdays or Sundays.

C. Contractor acknowledges that the school will be open and occupied while the Work is being completed. Every precaution must be taken to minimize disturbances and maximize safety during the work.

(i) The Contractor shall maintain sufficient barricades and warning signs to ensure everyone's safety during the progress of the Work.

(ii) The Contractor's construction vehicles shall enter the Project site and park in areas as directed by the District. The Contractor shall be responsible for coordination of traffic by its subcontractors, suppliers, etc., so as not to disrupt ongoing operations of the facility.

(iii) At all times, and in strict accordance with the School District's security procedures, the Contractor shall implement all required precautions and safeguards while on site.

**11. USE OF FACILITIES**

A. The District's building is off-limits to Contractor personnel for any use. Contractor personnel are not permitted to use any facilities, including restrooms or offices.

B. The Contractor is expected to provide its own sanitary facilities and all electrical power/lighting to perform the Work.

C. The District can provide a point source of water and 110v power access from the building for the Contractor's use. There is no guarantee that the sources of water or electricity will be easily accessible to the work area.

[END OF DOCUMENT]