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Rob McCoy
Manager of Facilities and Operations

**REQUEST FOR PROPOSAL
RFP #21-3**

WAYNE RESA – BURGER BAYLOR (AUTISTIC SCHOOL) DUCTWORK & HVAC UNIT CLEANING

Out for Bid: **October 1, 2021**
Wayne RESA
Purchasing Office
33500 Van Born Road
Wayne, MI 48184-2497

Pre-Bid Meeting: **October 11, 2021**
5:00 p.m. local time
28865 Carlisle St.
Inkster, MI 48141

Area tours are at this time only.

Bid Due Date / Opening: **October 25, 2021**
10:00 a.m. local time

or via Livestream:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_YjA3NWZjNzAtOTM1YS00ZTJkLWE3YTEtMDhkMmQyZTMyMTE%40thread.v2/0?context=%7b%22id%22%3a%223229604e-859b-4594-853b-c66d15b8dd80%22%2c%22oid%22%3a%22a38d5792-e3d8-4dec-af15-a1e273eabefb%22%2c%22isBroadcastMeeting%22%3a%22true%22%7d&btype=a&role=a

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I. INSTRUCTION TO VENDORS

A. Scope

Wayne RESA requests Bid Proposals for Burger Baylor (Autistic School) Ductwork & HVAC Unit Cleaning. Bid Proposals will be received through Building Connected on October 25, 2021 before 10:00am EST. All Proposals shall be submitted through Building Connected, for instructions on how to submit a bid please

follow this link: <https://buildingconnected-community.force.com/s/article/How-to-submit-your-bid-directly-through-BuildingConnected>

1. Proposals shall be based on the requirements set forth in the RFP by Barton Malow Builders (BMB) dated October 1, 2021.
2. Link to the Barton Malow Public Planroom:
<https://app.buildingconnected.com/public/55a1292ff1a96708004a19dc>
3. Accepted Bidders will be required, as a condition precedent to award of Contract, to furnish in the amount of 100% of the contract price, satisfactory Performance Bond and Payment Bond and Certificates of Insurance as required in the Project Manual.
4. Unless otherwise specifically set forth in the RFP, this Project is subject to state sales and/or use taxes and Bidder is required to include such taxes in its Bid Proposal.
5. Barton Malow Builders has been contracted by the Owner in the capacity of Construction Manager for the Project, and as such has the rights and obligations set forth in its contract with the Owner for those services and shall act as representative of the Owner to the extent required/allowed under its Owner contract.
6. Bid Proposals will be publicly opened October 25, 2021 at 10:00am, evaluated by the Owner and Barton Malow Builders with recommended awards subsequently made by Barton Malow Builders. The Owner shall not open, consider, or accept a Bid Proposal that is received after the date and time specified for bid submission in this Advertisement for Bid.
7. A pre-bid conference and site visit/tour will be held at Burger Baylor (28865 Carlyle St, Inkster, MI 48141) on October 11, 2021 at 5:00 pm. Pre-bid conference minutes will be distributed to all who are known by Barton Malow Builders to have received contract documents, but Barton Malow Builders and Owner will not be responsible for providing information to those not attending the pre-bid conference. Information disclosed in the pre-bid conference minutes will be considered part of the Bidding and Contract Documents.
8. Bid Proposals shall be submitted through Building Connected. Bidders will be required to submit with their Bid Proposals a Bid Security by a qualified surety authorized to do business in the state where the Project is located, an OSHA Form 300 for the most recent completed year, their worker's compensation Experience Modification Rate (EMR) factor, familial disclosure form, Iran sanctions form, and any other information required in the Instructions to Bidders. Bidders shall not withdraw Bid Proposals for a period of Sixty (60) Days after date for receipt of Bid Proposals.
9. The successful Bidder(s) will be required to enter into an agreement with **Owner** on the Agreement Form identified in Section 00500 of the Project Manual.
10. The right to reject any or all Bid Proposals, either in whole or in part, or to waive any informalities or irregularities therein is reserved by the Owner.
11. All Bid Proposals shall be accompanied by the sworn statement included in Section 00410 of the Project Manual, in accordance with MCL 380.1267, disclosing any familial relationship that exists

between the owner(s) or any employee of the Bidder and any member of the board of trustees or the President of the College. Bid Proposals that do not include this sworn and notarized disclosure statement shall not be accepted.

If you experience problems in downloading the documents, contact Kelli Ferguson (Barton Malow, Project Manager) at kelli.ferguson@bartonmalow.com

B. Introduction

Wayne County RESA (WRESA) is seeking the assistance of the following trades for work at the Burger Baylor School:

HVAC Cleaning

You must bid the entire scope of work for the category to be considered on this project. See Attachment #9 of this RFP for the required items to be provided in the scope.

The scope of the building repairs will be as described in Attachment #9.

All work must be done in a workman like manner and by individuals who have appropriate training and to a level of quality as acceptable by BMB and WRESA.

All work must be done on and around existing structure system, technology runs, conduits, etc. Any items not called out to be modified are assumed to remain and are to be protected as they will remain! Contractors are to field verify all work prior to submission of bid. Submission of bid is an acceptance of all field conditions. No additional change orders will be provided for field conditions in the for obvious items that could be found during a field evaluation.

SCHEDULE

All work must be done over and around a fully occupied (as it sits now) facility. Contractors are to provide the utmost care and concern when working in all areas. Clean up means to be as good or better condition than the work started at the beginning of the shift. All work is to have state review and approvals. Contractor will be required to apply for and obtain state permits and inspections as required. Schedule all inspections with BMB and WRESA so representatives can be in attendance. Provide proof of approvals at the completion of work.

Work can commence upon notification of award and all necessary start-up materials, bonds, insurance, and submittals are complete. **Work must be complete by December 30, 2021. All final closeout materials submitted by January 31, 2022.**

C. Proposal Process

1. Proposal must be prepared in compliance with provisions of this RFP. Failure to comply with all provisions of this RFP may result in disqualification of the proposal.
2. When submitting a bid proposal, use only the forms provided in the bid packet. **Forms that have been altered or substitute forms will not be accepted.**

3. Bid only the items as specified. No alternates will be accepted unless one or more of the following applies **CLARIFY THIS ON YOUR PROPOSAL**
 - Item has been discontinued.
 - Item is about to be discontinued.
 - Item available in *limited quantity* and will not be sufficient to cover orders for the entire bid period.
 - Changes in the law, rules, regulations or other legal mandate that disallow the use of a specified product.
4. Proposals will be opened publicly in a manner to avoid full public disclosure of contents; however, names of the Contractors and the bid amount will be read aloud.
5. Before submitting a proposal, each Contractor shall make all investigations and examinations necessary to ascertain conditions, requirements and obstacles, if any exist, affecting the operation of the proposed services. Failure to make such investigations and examinations shall not relieve the successful Contractor from the obligation to comply, in every detail, with all provisions and requirements of the RFP nor shall it be a basis for any claim whatsoever for alteration in any term or payment required by the Agreement.
6. Requests for information relating to procedural issues should be directed to:
Kelli Ferguson
Project Manager
Email: kelli.ferguson@bartonmalow.com
7. If a Vendor discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, they shall immediately notify RESA of such error in writing and request modification or clarification of the document. Modifications will be made by issuing a revision and will be given by written notice to all parties who have received this RFP from WRESA's Purchasing Department as well as being posted on the Wayne RESA website. The Vendor is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the RFP prior to submitting the proposal or it shall be deemed waived.
8. Products and services which are not specifically requested in this RFP, but which are necessary to provide the functional capabilities proposed by the Vendor, shall be included in the proposal.
9. No allowance will be made after proposals are received and opened, for oversight, omission, error, or mistake by Vendor.
10. All proposals and any accompanying documents become the property of WRESA and will not be returned.
14. WRESA will not be liable in any way for any costs incurred by Vendors in the preparation of their proposals in response to this RFP nor for the presentation of their proposals and/or participation in any discussions or negotiations.
15. WRESA reserves the right to withdraw this RFP at any time and for any reason and to issue such clarifications, modifications, and/or amendments as it may deem appropriate.

16. Receipt of proposal materials by WRESA or submission of a proposal to WRESA offers no rights against WRESA nor obligates WRESA in any manner.
17. WRESA reserves the right to waive minor irregularities in proposals. Any such waiver shall not modify any remaining RFP requirements or excuse the Vendor from full compliance with the RFP specifications and other contract requirements if the Vendor is awarded the contract.
18. Proposal must be signed by an officer of the Vendor who is legally authorized to obligate the Vendor to a contract.
19. All proposals shall be a matter of public record subject to the provisions of Michigan law.
20. All bidders are required to confirm that they have ALL bidding documents, addendums, and clarifications BEFORE bids are submitted. Contact location is as provided above.

D. Evaluation of Proposals and Award

1. All Vendors, by submitting proposals, agree that they have read and are familiar with all the terms and conditions of the RFP (including drawings, project manual and specifications) and will abide by the terms and conditions thereof.
2. WRESA, at its sole discretion, shall determine whether particular Vendors have the basic qualifications to conduct the desired service for WRESA. In determining whether a Vendor possess the basic qualifications to operate, WRESA may consider, but not be limited to, the following: (a) Vendor's general reputation for performance and service; (b) Vendor's longevity of service (number of years) and previous experience in operation of public assembly facilities; (c) Years of continuous business; (d) Vendor's financial condition.
3. Proposals will first be examined to eliminate those that are clearly non-responsive to stated requirements.
4. Award shall be made to the most responsible Vendor whose proposal is determined to be the most advantageous to WRESA taking into consideration the terms and conditions set forth in this RFP. A valid and enforceable contract exists when an agreement is fully executed between WRESA and the Vendor.
5. Any response that takes exception to any mandatory items in this RFP may be rejected and not considered.
6. WRESA reserves the right to accept or reject in part or in whole any or all proposals submitted. WRESA reserves the right to select other than the lowest bidder.
7. WRESA reserves the right to request in writing clarifications or corrections to proposals. Clarifications or corrections shall not alter the Vendor's price contained in the cost proposal.
8. WRESA reserves the right to negotiate further with the successful vendor. The content of the RFP and the successful Vendor's proposal(s) will become an integral part of the contract but may

be modified by the provisions of the contract. The contract will be issued in the form of a purchase order to the successful contractor.

9. By submission of proposals pursuant to this RFP, Vendors acknowledge that they are amenable to the inclusion in a contract of any information provided either in response to this RFP or subsequently during the selection process.
10. A proposal in response to an RFP is an offer to contract with WRESA based upon the terms, conditions, and scope of work and specifications contained in the RFP.
11. WRESA has the right to use, as WRESA determined to be appropriate and necessary, any information, documents, and anything else developed pursuant to the RFP, the proposal and the contract.
12. Vendors must submit proposals that are complete, thorough, and accurate. Brochures and other similar material may be attached to the proposal.
13. All proposals must be valid for 60 days from the proposal submission date.
14. Proposals received after the specified date and time for proposal submission shall not be considered, but will be recorded, filed, and shall remain sealed.

II. SPECIFICATIONS

A. General

Specifications (attached herein) are intended to define the level of quality and performance of the requested equipment/service and not to be restrictive. All variations from the specified items shall be fully explained and included with the bid. Manufacturer names and manufacturer product numbers shall be used in all cases. All prices quoted shall be on a unit basis. The determination of the Bid Evaluation Committee as to what alternates are equal shall be final and conclusive.

Each bid shall include:

- **A plan for installation**
- **A detailed schedule showing all required items and timelines achieving the project milestones.**

Milestone dates:

- Out for bid: October 1, 2021
- Pre-bid Meeting: October 11, 2021 at 5:00pm – **At the project site listed on coversheet**
- Bid Due date: October 25, 2021 at 10:00am – via Livestream
- Post bid meeting(s): October 26, 2021 starting at 10:00 a.m. (contractors submitting bid must attend this meeting if determined to be low bidder at opening)
- Contract action made: November 2021 Purchase order (form of contract issued)

- **Start of Construction: November 29, 2021**
- Contractors are to provide their required durations for the project.

NOTE: This work will be conducted during evening hours (4pm – 12am). Contractor to include in their base bid all necessary shift time, over time, weekend work as necessary to maintain this milestone schedule. Contractors also must provide all “quick ship” for all long lead items in their base bid to be able to maintain this construction turnover schedule as listed above.

B. Renovation work – general overview of the scope of work (see Attachment 9 for specific work scope assignments)

There is one scope of work for this project.

- The HVAC Cleaning contractor is responsible for thoroughly cleaning of the existing HVAC units.

Provide all necessary investigations and subcontractor coordination required to complete the work and all phasing. Contractor(s) are responsible to coordinate with the Barton Malow Builders and Wayne RESA on all work not to disrupt owners’ operations. All necessary submittal procedures are to be followed per the project manual.

The scope of the work is to provide all necessary construction as shown on the drawings and specified within this RFP. This includes all required Wayne County permits, state permits, electrical and mechanical permits as required. Copies of all permits must be provided before the start of work.

Additionally all work is being performed around fully operational systems. These systems operation **MUST** be maintained at all times. No outages to the system can be made. If shutdowns are required, this work is scheduled to occur on unoccupied times or weekends as needed. Temporary dust barrier and enclosures must be provided during all phases of the work.

Contractor and all necessary subcontractors are to attend bi-weekly progress meeting with project team as required determined, **at a date and time selected by the Barton Malow and WRESA.**

Dumpster must be rubber tire and grass protection must be provided in a mutually agreed upon location. All repairs to the grass including leveling, filling and reseeding must be provided. Sidewalk and curb protection must be provided as well.

All interior areas of the building are to be protected from damage, foot traffic and dust migration. The exterior door must remain clear for egress in cause of emergency during construction.

All Contractor(s) are to provide an on-site coordinator to provide coordination the daily activities of your work. Must provide emergency response at any time 24 hours a day 7 days a week in case of ANY emergency required to keep the systems operations (example any construction caused emergency).

Provide for ALL overtime and shift time necessary to complete the work as required within the timeframe provided.

NO hazardous materials or flammable materials can be stored on site and must be removed daily.

The Contractor(s) shall be responsible to maintain at the job site one copy of:

1. Record Contract Drawings
 2. Record Project Manual
 3. Addenda
 4. Reviewed/Approved Shop Drawings and submittals
 5. Change Orders
 6. Other modifications to Contract
 7. Field test records
 8. Affidavits
- B. Store documents apart from documents used for construction.
- C. Maintain documents in clean, dry, legible condition.
- D. Do not use project record documents for construction purposes.
- E. Make documents available for inspection by the Owner and Barton Malow Builders.

The Contractor(s) is/are to provide the close-out requirements are as follows:

Close-out DEFINITIONS

A. Close-out is the process of organizing the general project requirements near the end of contract time to evidence the completion of the Work. The time of close-out directly relates to "Substantial Completion." It can either be a single time period for the entire Work, or a series of time periods for individual parts of the Work, which have been certified as Substantially Complete at different dates. Unless otherwise defined in the Contract Documents, Substantial Completion of the Work is the stage in the progress of construction when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

Substantial Completion of the Project is the stage when Project construction is sufficiently complete so the Owner can occupy or utilize the project for its intended use.

Final Completion of the Project is the stage when Certification of Substantial Completion has been issued by the Architect according to the terms and conditions of the Contract Documents "approval of the Project Certificate for Payment has been received from the Architect (or Owner) in order to release final payment to the Contractor."

1.03 PROJECT COMPLETION

- A. Contract requirements shall be met when construction activities have successfully produced, in this order, these three Project completion milestones:
1. Substantial Completion
 2. Final Completion
 3. Final Payment

PART 2 - CLOSE-OUT PROCESS

2.01 CONTRACT CLOSE OUT DOCUMENTATION

A. Before processing the completion of all contractual responsibilities of a Contractor, and to expedite final payment to a Contractor, a detailed review of all contractual requirements will be performed along with compiling a list of deficiencies. Effective and timely contract close-out is the objective, but it also requires efficient and timely action of the Contractor to provide the necessary punch list completion Work, documents, materials, close-out documentation, and all other requirements set forth in the Contract Documents.

2.02 CLOSE-OUT PROCEDURE

A. The following procedure and forms will be used to progress through the contract close-out stage in a productive and timely manner. Note: Contractor is required to provide these forms for use on this project.

Step 1 PREPARATION FOR CONTRACT CLOSE-OUT

During the course of the Project, the Contractor will thoroughly review the Contract Documents as it relates to the requirements and obligations and gather and submit to Barton Malow Builders the proper submittals, shop drawings, material certifications, waivers, certificates of insurance, bonds, and other contractual requirements impacting contract close-out.

Step 2 INITIATING THE FINAL CLOSE-OUT PROCESS

When nearing 90% completion of the Work, the Contractor will review the status of the Close-Out process with Barton Malow Builders. The Contractor's contractual responsibilities will be reviewed and outstanding close-out and other submittals identified.

Step 3 OBTAINING THE CERTIFICATE OF SUBSTANTIAL COMPLETION

Note: This work is being performed as 2 phases the date of substantial completion will be considered from the point of owner use / system commissioning (owner turnover). As the Phase 1 and Phase 2 work is completing and contractor is nearing the completion of the Work and after concurrence with Barton Malow Builders, it shall submit a written request for Substantial Completion, all required documentation as outlined, and a listing of all minor deficiencies yet to be completed.

The following documents are the minimum required at the time of request for Substantial Completion. Contractor shall also submit all additional documentation as required in the Contract Documents:

- AIA G704 Certificate of Substantial Completion – (3 original signed documents)
- As-built records
- Operation and Maintenance Manuals

- Keys, Maintenance Stock, and Spare Parts - quantities as required in the specifications.
- Test and Start-up/Owner Training Sessions
- Submission of Permits and Approvals (i.e., Fire Marshal, Department of Public Health Approvals, etc.) – one original and two copies. Closed out permits and certificate of occupancy by each permitting agency.
- Guarantee and Warranties
- Asbestos Free waivers
- Punchlist (list of work to be completed or corrected)

Once Barton Malow Builders has received all required documents they will be forwarded to the Architect and Owner. Barton Malow Builders will review the Contractor's request for Substantial Completion; all above documentation, and list of deficiencies, add appropriate comments, and forward to the Owner for review. In conjunction with the Contractor, Barton Malow Builders will establish a schedule for the completion of all listed items, which in no event shall exceed any time periods established in the Contract Documents for Final Completion.

When the Architect determine(s) that the Work is substantially complete, the Certificate of Substantial Completion shall be issued to the Contractor.

Step 4 CONTRACTOR COMPLETES PUNCHLIST WORK

Each Contractor shall submit a letter certifying all punchlist items are completed, in a manner acceptable to the Owner and Barton Malow Builders.

Step 5 FINAL INSPECTION NOTICE

Each Contractor is to forward written notice and accompanying documentation to Barton Malow Builders that Work is ready for final inspection and acceptance. Barton Malow Builders will forward written notice to the Owner if Barton Malow Builders is in agreement that Work is complete. The Owner will perform a final inspection and sign off on the punchlist form if Work is in fact completed. If punchlist work is not found complete, the Contractor shall take action to remedy any insufficiencies and then shall re-submit the written notice and accompanying documentation that Work is ready for final inspection and acceptance. If Barton Malow Builders is required to perform “more than 2” site visits to determine Substantial or Final Completion of Contractor’s Work, the costs for such additional inspections shall be charged to Contractor.

The following documents are the minimum required to complete final payment. Contractor shall also submit all additional documentation as required in the Contract Documents in a digital / EMAIL FORMAT only:

1. Final Payment Request (on G702 & G703).

2. Provide proof of completed inspections, including finalized approved permits

3. Guarantees/Warranties (including subs and suppliers).
4. Final Sworn Statements (including subs and suppliers).
5. Acknowledgment of Payment and Partial Unconditional Release
6. Final Release Subcontractor/Materialman
7. Consent of Surety Company to Final Payment (AIA G707)
8. Consent of Surety to Reduction or Partial Release of Retainage (AIA G707A)
9. Certificate of Substantial Completion (on G704).
10. Completion and acceptance of all punch list Work.

Items 2, 3, 4 and 5 must always be submitted with the final request for payment.

Step 6 REVIEW OF FINAL PAYMENT REQUEST

Barton Malow Builders will review the Contractor's final payment request and Close-Out file. Barton Malow Builders reserves the right to withhold 200% of the estimated cost for each punchlist item not completed until complete. If all administrative documents are attached or have been submitted (i.e. guarantee, warranty, waiver of lien, etc.), all Work is complete, and all other responsibilities are met, the Project Team will forward the Contractor's Application for Final Payment to the Owner and payment shall be processed according to the Owner's regular procedures.

2.03 FINAL COMPLETION

- A. To attain final completion, the Contractor shall complete activities pertaining to Substantial Completion, and complete Work on punch list items. Only then shall it issue written request to Barton Malow Builders to conduct a site visit to determine Final Completion.
- B. When Contractor considers the Work is finally complete, it shall submit written certification that:
 1. Contract Documents have been reviewed.
 2. Work has been inspected for compliance with Contract Documents.
 3. Work has been completed in accordance with Contract Documents.
 4. Equipment and systems have been tested in the presence of the Owner's representative and are operational.
 5. Work is completed and ready for final observation.

- C. Barton Malow Builders will make an observation to verify the status of completion with reasonable promptness after receipt of such certification.
- D. Should Barton Malow Builders consider that the Work is incomplete or defective:
- Barton Malow Builders will promptly notify the Contractor in writing, listing the incomplete or defective Work.
 - Contractor shall take immediate steps to remedy the stated deficiencies and send a second written certification to the Barton Malow Builders that the Work is complete.
 - Barton Malow Builders will re-inspect the Work.
- E. When Barton Malow Builders determines that the Work is acceptable under the Contract Documents, it shall request the Contractor to make close-out submittals. The contractor should start assembly of close-out items immediately from start of work!

2.04 CONTRACTOR'S CLOSE-OUT SUBMITTALS

- A. Evidence of compliance with requirements and approval of governing authorities (state, local or federal):
1. Certificates of Inspection
- B. Project Record Documents:
- C. Operating and Maintenance Data, Instructions to Owner's Personnel:
- D. Warranties and Bonds: Refer to requirements of Individual Sections and Individual Technical Specifications
- E. Spare Parts and Maintenance Materials: Refer to requirements of Individual Technical Specifications.
- F. Evidence of Payment and Release of Liens:

Contractor to abide by all MIOSHA rules and regulations, along with all Barton Malow safety standards are provided within the document as attachment. Hardhats, safety glasses are required. No smoking is allowed on this project site.

(Sections 1 through 4 omitted)

Section 5 Contract Sum and Payments

- 5.2 The Vendor may submit for progress payments at most monthly. Pay applications shall be submitted using the Application and Certificate for Payment (AIA Documents G702 and G703 Continuation Sheet).

- 5.3 Before the first application for payment, the Vendor shall submit to the Owner a quotation schedule showing the values allocated to each quotation for portions of the Work ("Schedule of Values"). The Vendor's schedule of values shall be accompanied by a certified statement from the Vendor prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, when approved by the Owner, shall be submitted with each application for payment and shall be used as a basis for reviewing the Vendor's applications for payment.
- 5.4 On or before the twentieth (20th) of the month, the Vendor may submit a draft of the Application for Payment. The Vendor is to invoice for Work completed from the twentieth (20th) of last month to the twentieth (20th) of the present month. The Vendor shall submit during the review, the itemized rough draft of the Application and Certificate for Payment (AIA Documents G702 and G703 Continuation Sheet) identifying the Work completed, if any, during the current calendar month; shall review same with Barton Malow Builders and obtain a preliminary approved copy of the draft for official submission. Vendor's pay application shall only reflect Work completed through the date of submission. In no event will payments be authorized for forecasted Work.
- 5.5 With the draft information agreed upon, the Vendor will prepare a formal application for payment request. Three (3) originals of the request and three (3) originals of the sworn statements must be submitted to Barton Malow Builders' Site office on or before the twenty-fifth (25th) of the month, or as scheduled with the project team. Late or incomplete application packets will not be accepted. The payment request will be made on an Application and Certificate for Payment form (AIA documents G702 and G703). Each Vendor is responsible for obtaining the forms. Before submitting these documents to Barton Malow Builders, each request for payment must be signed by a duly authorized agent of the Vendor and notarized. The Vendor must include with each request for progress payment a waiver of lien for all previous payments, Vendor's sworn statement and any necessary backup data, Waivers of Lien and Sworn Statements. In addition, at submission of the final pay application Vendor shall provide unconditional final waivers of lien for all Subordinate Parties, as well as all documentation required. In requests for payment which follow the execution of a Change Order in excess of twenty-five percent (25%) of the Agreement price, Vendor must present a bond rider evidencing that the penal sum of any required payment and performance bonds have been increased to one hundred percent (100%) of the adjusted Agreement price. Submission of the required back-up data is a condition precedent to payment.
- 5.6 No payment shall be issued to a Vendor for materials stored off-site unless approved in writing by the Owner. If approved, the Vendor will be required to provide additional documentation for the stored materials. If billing for stored materials will be requested by the Vendor, review the additional requirements with Barton Malow Builders (off site storage must be fully insured and the insurance policy must be provided).
- 5.7 Owner shall be entitled to withhold ten (10%) percent of each payment due to a Vendor until the punchlist has been completed and all closeout documents have been submitted.
- 5.8 Each application for payment shall be based on the payment terms as described in this Section and shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require.
- 5.9 Second and final payment must be accompanied by lien waivers from the Vendor, its Subordinate Parties or receipted invoices covering payment to the Vendor for previous billings. Lien waivers must be unconditional and must show the amount paid.
- 5.10 An "Acknowledgment of Payment and Partial Unconditional Release" must be provided. The Waiver of Lien is to be signed by an authorized representative of the Vendor. Under no circumstances will ANY payments be released until the completed "Acknowledgment of Payment and Partial Unconditional Release" has been submitted and signed by the Vendor from the previous month.

- 5.11 Final payment will not be made until a Final Release has been submitted. The Final Release must be signed by an authorized representative of the Vendor and must be notarized. Consent of final surety must be provided from the vendors bonding company for release of final payment.
- 5.12 Final unconditional waivers will be required for all of Vendor's Subordinate Parties (e.g. suppliers). These final waivers must be submitted along with the final release before payment can be made.
- 5.13 Provided an Application for Payment is submitted to the Barton Malow Builders and approved not later than the 25th day of a month, the Owner's payment to the Vendor will be issued not later than 45 days from the date the approved invoice is received by the Owner.

Taxes, Permits, Fees and Notices

- 6.1 The Contractors shall pay all required sales, consumer, use and similar taxes for the Work provided by the Vendor.
- 6.2 Unless otherwise provided in the Contract Documents, the Vendor shall secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required as of that date.
- 6.3 The Contractor shall comply with and give notices required by all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities.

Supervision of the Work

- 7.1 The Contractor shall supervise and direct the Work, using the Vendor's best skill and attention. The Vendor shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures of completing the Work and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.
- 7.2 The Vendor shall be responsible to the Owner for acts and omissions of the Vendor's employees, Sub-Vendors and their agents and employees, and other persons or entities performing or providing portions of the Work to, for or on behalf of, the Vendor or any of its Sub-Vendors.
- 7.3 The Vendor shall not contract with a proposed Sub-Vendor, person or entity to whom the Owner or BMB has made reasonable objection or change a Sub-Vendor, person or entity previously selected if the Owner or BMB makes reasonable objection to such change. If the Owner or BMB has reasonable objection to a person or entity proposed by the Vendor, the Vendor shall propose another to whom the Owner or BMB has no reasonable objection.
- 7.4 By appropriate written agreement, each Sub-Vendor to the extent of the Work to be performed by the Sub-Vendor, shall agree to be bound to the Vendor by terms of the Contract Documents, and to assume toward the Vendor all the obligations and responsibilities which the Vendor, by the Contract Documents, assumes toward the Owner and BMB. Each subcontract agreement shall preserve and protect the rights of the Owner and Construction Manager under the Contract Documents with respect to the Work to be performed by the SubVendor so that subcontracting thereof will not prejudice such rights, and shall allow to the SubVendor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Vendor that the Vendor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each SubVendor to enter into similar agreements with persons or entities that have a direct or indirect contract with a Sub-Vendor to perform a portion of the Work at the site (each, a "Sub-subvendor").
- 7.5 All contracts between Contractor and Sub-Vendors and Sub-Vendors and Sub-sub vendors shall be in writing and shall specifically provide that the Owner is an intended third-party beneficiary of such subcontracts. Each such agreement shall also be assigned to the Owner, provided, that (a) assignment is effective only after termination of the Agreement by the Owner and only for those

agreements which the Owner expressly accepts by notifying the Sub-Vendor or the Sub-sub vendor in writing; and (b) assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Agreement.

Labor and Materials

- 8.1 Contractor shall provide and pay for any labor, materials, tools, machinery, delivery, installation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated into the Work.
- 8.2 The Contractor shall not make substitutions until after evaluation by BMB and approval by the Owner.
- 8.3 Changes in work, contractor is allowed 10% markup for self-performed work and 5% markup on subcontractors. A full breakdown of all quotes showing labor, materials, subcontractor costs will be provided to BMB and RESA as request for any additional work IF requested.

Indemnification

- 9.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Barton Malow Builders and Barton Malow Builders' consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Vendor, a Sub-Vendor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section.
- 9.2 In claims against any person or entity indemnified under this Section by an employee of the Vendor, a Sub-Vendor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 9.1 of this Agreement shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Sub-Vendor under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 9.3 Contractor warrants that the transfer to Owner and the Owner's use of any and all software and related documentation and that the manufacture, installation or sale by Contractor of any Equipment or use thereof by Owner required for the Work pursuant to the Contract Documents will not infringe any proprietary rights (including patents, copyrights, trademarks, service marks, trade secrets or other ownership rights) of any other entity. To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the Owner, BARTON MALOW BUILDERS, BARTON MALOW BUILDERS's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from any breach of the foregoing warranty, provided that the party seeking indemnification under this Section notifies Contractor in a timely fashion of such claim. In the event a claim of infringement is asserted, Contractor may (a) replace or modify the software and related documentation transferred to Owner, so long as Owner agreed that such replacement or modification achieves the substantive results of the original versions provided, or (b) procure, at its expense, appropriate licenses for Owner to use the rights allegedly infringed. Such obligation of Contractor shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section.

Title and Risk of Loss

- 10.1 Notwithstanding the provisions of Section 14 of this Agreement, title to all Equipment, including any software, software configurations, components and systems associated with such Equipment, together with their respective titles, license numbers, serial numbers and associated use, maintenance and operating manuals, as required by the Contract Documents, shall be transferred to the Owner upon payment in full to the Vendor, free and clear of all liens, encumbrances, claims and charges of any kind or nature.
- 10.2 The risk of loss, with respect to all Equipment provided by the Vendor, shall remain on the Contractor until title to the Equipment, or designated portion thereof, is transferred to the Owner pursuant to Section 10.1 of this Agreement.
- 10.3 The Owner shall be under no obligation to insure any Equipment that does not conform to the Contract Documents or has been rejected by the Owner. Under such circumstances, the risk of loss shall remain with the Vendor.

Clean Up

- 11.1 The Contractor shall keep the Project premises and surrounding area free from accumulation of waste materials and other debris created by operations required of the Contractor under the Contract Documents. At completion of the Work, **Contractor** shall remove or cause to be removed from and about the Project any and all waste materials and other debris created by Vendor's activities, tools, equipment, machinery and surplus materials, including, but not limited to, any and all packing materials for the Equipment.
- 11.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so with its own or separately contracted forces, and, in either case, the cost thereof shall be charged to the Vendor.

Delivery

- 12.1 Contractor shall become fully informed of the conditions relating to delivery, installation and labor under which the Work will be performed. Contractor shall employ such labor and means and methods of carrying out the Work as are required by such conditions.
- 12.2 Delivery and installation of all Equipment shall be made to the location or locations specified by the Owner and confirmed by the Contractor in writing. The Contract Sum includes all costs for delivery of the Equipment under this Agreement, whether accomplished in single or multiple deliveries. Installation of Equipment shall include testing as required by the Contract Documents.
- 12.3 Delivery of the Equipment shall also include delivery to Owner in electronic and written form compiled code and original source code, together with applicable documentation, for any software or software configuration that has been custom-configured for the Project or is otherwise not commercially available to the general public.
- 12.4 Contractor shall consult with Owner and BMB to identify the route to be used within the Project premises from the point of initial delivery to the place of final placement and/or installation. After its selection, the route shall be made available for delivery of Equipment as provided in the Contract Documents.
- 12.5 Contractor shall, within a reasonable time prior to delivery, provide the Owner and BMB with schedules for access and arrange for the use of elevators and unloading facilities as required.

13. Installation

- 13.1 Any access to the Owner's facilities, data network, telecommunications network, proprietary network, systems and/or components necessary for the installation required by the Contract Documents shall be limited to specifically designated areas defined by Owner in writing for a specified, limited period of time, as required for the Work related to the Project.
- 13.2 Contractor shall keep all security, confidential information, data, network, systems, access privileges and passwords of Owner (collectively, the "Confidential Information") in strictest confidence and shall use its best efforts and utmost diligence to safeguard Owner's Confidential

Information and to protect it against disclosure, misappropriation, misuse, espionage, loss and theft. Contractor shall notify Owner immediately in the event of any breach or threat of breach of the Confidential Information.

13.3 Omitted – Not applicable.

13.4 All installation included in the Work shall comply with all rules, regulations, requirements and/or standards established by all applicable building, fire and safety codes.

13.5 When the Contractor considers installation of all or a designated portion of the Equipment required by the Contract Documents to be complete, Contractor shall advise the Owner and BMB in writing.

14. Acceptance

14.1 Prior to the tender of delivery by the Vendor, the Owner may conduct a preliminary inspection of the Material for the purpose of verifying the delivery of the Material, including an inventory of quantities. Such preliminary inspection shall not, however, constitute an acceptance of, taking charge over or control of such Material. Any defects, damages, deficiencies, or nonconformity discovered by the Owner shall be reported to the Vendor.

14.2 Upon completion of delivery and installation of the Material, the Owner, shall conduct an acceptance inspection, including, but not limited to, an inventory of the Material. If the Owner determines that the Material complies with the requirements of the Contract Documents, the Owner shall notify the Contractor that the Material has been accepted. If the Owner determines that all or any portion of the Material does not conform to the requirements of the Contract Documents, the Owner shall reject such nonconforming portion by notifying the Contractor in writing of such rejection.

14.3 If the Owner rejects all or any portion of the delivery, the Owner shall notify the Contractor within a reasonable time, which shall not be more than ten (10) days after the date of the Owner's inspection of the delivery, and such notice shall include the specific basis for rejection.

14.4 If the Owner rejects all or any portion of the delivery, the Owner shall hold such portion for a reasonable time to permit such portion to be removed from the Project premises by the Contractor at Vendor's sole cost and expense.

14.5 Upon rejection by the Owner, the Contractor shall have three (3) days to provide acceptable evidence of arrangements to remedy the basis for rejection. If the Contractor remedies the basis for rejection, the Contractor shall notify the Owner in writing. The Owner shall have an additional period to conduct an acceptance inspection of the previously rejected Material. If the Owner agrees to accept the Material, the Owner shall so notify the Contractor in writing. If the Owner rejects the tender of such Material, the Owner shall notify the Contractor within a reasonable time, which shall not be more than three (3) days. Such notice shall include the specific basis for rejection. Upon rejection, the Contractor shall remove the rejected Material from the Project premises at Vendor's sole cost and expense.

14.6 If Material that has been previously accepted is found not to comply with the requirements of the Contract Documents, the Owner shall be entitled to revoke acceptance so long as the Contractor does not suffer actual prejudice by virtue of the Owner's prior acceptance of such Material. Such revocation of acceptance shall be made by giving prompt notice to the Vendor. In such event, the Contractor shall proceed in accordance with Section 11.4.

14.7 The provisions of this Section do not limit or supersede the provisions of Section 10 or preclude recovery of damages as provided by law.

15. Warranties

15.1 The Contractor expressly warrants to the Owner and Barton Malow Builders that the Material and the Work comply with the requirements of the Contract Documents. The Contractor further

warrants that the Owner shall receive the benefit of standard manufacturer's warranties and guarantees applicable to the Work and the Material.

- 15.2 The Contractor provides to the Owner and BMB all warranties relating to the Equipment implied by law, including but not limited to the warranty of merchantability.
- 15.3 The Contractor acknowledges that no exclusion of or limitation on warranties contained in any proposal, product literature or other submittal shall affect the warranties provided pursuant to this Section.
- 15.4 During the warranty period, the Contractor will, without charge to Owner, correct any defects in the Material and such additions, modifications and adjustments to the Material as may be necessary to keep the Material in operating order.
- 15.5 All warranties shall survive the execution or termination of this Agreement.

16. Claims and Disputes

- 16.1 As used in this Agreement, a "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Agreement terms, payment of money, and extension of time or other relief with respect to the terms of the Agreement. The term "Claim" also includes other disputes and matters in question between the Owner and Electrical Contractor arising out of or relating to the Agreement. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- 16.2 Claims by either party must be initiated within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to BMB and the other party.
- 16.3 Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Agreement, and the Owner shall continue to make payments in accordance with the Contract Documents.

17. Resolution of Claims and Disputes

- 17.1 Claims shall be referred initially to BARTON MALOW BUILDERS. An initial recommendation in writing by BARTON MALOW BUILDERS, followed by negotiation of the parties, shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless thirty (30) days have passed after the Claim has been referred to BARTON MALOW BUILDERS with no recommendation having been made by BARTON MALOW BUILDERS.

18. Mediation

- 18.1 Any Claim arising out of or related to the Agreement, except Claims waived as provided for in this Agreement, shall, after recommendation by BARTON MALOW BUILDERS or thirty (30) days after submission of the Claim to BARTON MALOW BUILDERS, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.
- 18.2 The parties shall endeavor to resolve their Claims by mediation, which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Mediation Rules of the American Arbitration Association in effect at the time of the mediation. Any request for mediation shall be filed in writing with the other party to the Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration, but in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.
- 18.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon.

Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

19. Arbitration

19.1 Any Claim that the parties do not resolve in mediation as prescribed above shall be decided by arbitration.

19.2 Unless the parties mutually agree otherwise, arbitration shall be in accordance with the Construction Arbitration Rules of the American Arbitration Association in effect at the time of the arbitration. Any demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy shall be filed with BARTON MALOW BUILDERS.

19.3 A demand for arbitration shall be made within a reasonable time after the mediation, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

19.4 No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, BARTON MALOW BUILDERS, BARTON MALOW BUILDERS's employees or consultants, except by written consent containing specific reference to the Agreement and signed by BARTON MALOW BUILDERS, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Vendor, a separate Contractor as described in this Agreement and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate Contractor as described in this Agreement shall be included as an original third party or additional third party to arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

19.5 The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

19.6 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

20. Bonds

20.1 The Contractor shall furnish a Performance Bond and a Payment Bond, in amounts equal to the Agreement price, by a qualified surety naming both the Owner and Barton Malow as Obligees. All sureties providing bonds on this Project must be listed in the Department of Treasury's Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" with the bond amounts less than or equal to the underwriting limitation indicated in the Circular, and/or must have an A.M. Best rating of A – or better. Bonds shall be duly executed by the Vendor, as principal, and by a surety that is licensed in the state in which the Work is to be performed.

20.2 The Contractor shall deliver the required bonds to Barton Malow Builders prior to execution of the Agreement. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder, at a minimum, shall submit evidence to the satisfaction of Barton Malow Builders that such bonds will be furnished prior to commencement of on-site Work. In no event may the Contractor commence on-site Work without the required bonds properly issued and delivered.

20.3 Performance Bond and Payment Bond form AIA Document A312 must be used for this Project.

- 20.4 The Bidder's proposed surety must be acceptable to the Owner and Barton Malow Builders. If, at any time, after acceptance of the Vendor's bonds, the surety fails to meet the criteria stated above, the Contractor must, as a precondition to continuing Work and receiving further payments, replace the bonds with bonds from a surety that meets the stated criteria.
- 20.5 The Performance and Payment Bond penal sums (i.e., the Agreement price) must be listed as a separate line item on the bid proposal and payment requests.
- 20.6 In the event of a Change Order to the Agreement that increases the Agreement price, the penal sum of any required Performance and Payment Bonds shall also be increased so that each penal sum equals the adjusted Agreement price. Barton Malow Builders or Owner shall have the right to request submission of bond riders, issued by the original qualified surety, evidencing that such increase to the penal sum of the bonds has been accomplished. Notwithstanding the foregoing, in the next pay application after the Agreement price has been increased by twenty-five percent (25%) or more, as a condition precedent to payment, The Contractor shall deliver a bond rider issued by the original qualified surety evidencing that the appropriate increase in penal sums has been accomplished. No alteration, erasure, or addition is to be made in the typewritten matter.

21. Insurance

- 21.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims listed in this Section which may arise out of or result from the Vendor's operations under the Agreement and for which the Contractor may be legally liable, whether such operations be by the Vendor, by a Sub-Vendor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of the Vendor's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than the Vendor's employees; (d) claims for damages insured by usual personal injury liability coverage; (e) claims for damages, other than to the Work itself, because of injury to, or destruction of, tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims involving contractual liability insurance applicable to the Vendor's obligations; and (h) claims for products liability insurance.
- 21.2 The insurance required above shall be written for not less than the limits of liability specified on **Attachment # 5**, attached hereto and incorporated herein by this reference, or required by law, whichever coverage is greater.

22. Protection of Persons and Property

- 22.1 Neither the Contractor nor its agents, employees, Sub-Vendors, consultants or the like shall enter the location of the Project without the prior consent of Owner and BARTON MALOW BUILDERS, which consent may be conditioned upon Vendor's providing Owner with satisfactory evidence of safety training for those persons entering the Project Site.
- 22.2 The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Agreement, in accordance with the safety program established for the Project by the Owner and/or BARTON MALOW BUILDERS (the "Project Safety Plan"). In case of any conflict between Vendor's safety program and the Project Safety Plan, the Project Safety Plan shall control.
- 22.3 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to (a) employees on the Work and other persons who may be affected thereby, (b) the Work and materials, furniture, furnishings and equipment to be

incorporated therein, including the Material, whether in storage on or off the Project premises, under care, custody or control of the Contractor or Sub-Vendors, and (c) other property at the Project premises or adjacent thereto, including property of the Owner, separate vendors or other persons, whether or not completed or installed.

- 22.4 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 22.5 When use or storage of flammable, volatile or other Hazardous Materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. As used in this Agreement, "Hazardous Materials" means asbestos; cadmium; chlorofluorocarbons; chromium VI; hydrochlorofluorocarbons; lead; mercury; nickel; polybrominated biphenyls; polychlorinated biphenyls and terphenyls; azo colorants, aromatic amines and azo dyes; halogenated flame retardants and additives; tributyl tin, tributyl tin oxide and triphenyl tin; polychlorinated naphthalene; antimony; arsenic; beryllium; bismuth; phthalates; selenium; ozone depleting substances; chloroparaffins; polyvinyl chloride; halogenated plastics or polymers; expanded polystyrene foam; any materials containing such substances; compounds of such substances, including, but not limited to, their ethers and oxides; molds; and any other chemical, material, or substance subject to regulation as a hazardous material, hazardous substance, toxic substance, or otherwise, under applicable federal, state, or local law, and any other chemical, material, or substance that may have adverse effects on human health or the environment.
- 22.6 The Contractor shall promptly remedy damage and loss to property, other than damage to the Work, caused in whole or in part by the Contractor or anyone directly or indirectly employed by the Vendor, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Vendor.

23. Administration of the Agreement

- 23.1 BARTON MALOW BUILDERS will provide administration of the Agreement as described in the Contract Documents and will be an Owner's representative during performance of the Work until final payment is due. BARTON MALOW BUILDERS will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.
- 23.2 BARTON MALOW BUILDERS will not be responsible for failure of the Contractor or a Sub-Vendor to meet schedules for completion or to perform their respective duties and responsibilities in conformance with such schedules.
- 23.3 BARTON MALOW BUILDERS shall not have control over, charge of or responsibility for the means, methods, techniques, sequences, or procedures of the Work, or for the safety precautions and programs in connection with the Work.
- 23.4 BARTON MALOW BUILDERS will not be responsible for the Vendor's failure to perform the Work in accordance with the requirements of the Contract Documents. BARTON MALOW BUILDERS shall not have control over, charge of or responsibility for acts or omissions of the Vendor, Sub-Vendors, their agents or employees, or any other persons or entities performing portions of the Work.
- 23.5 BARTON MALOW BUILDERS will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the time, and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Vendor. The Contractor shall carry out such written orders promptly. **By performing the work as directed it is to be considered a "NO COST" change and included within the Contractors contract value without increase.**

- 23.6 Unless otherwise provided, BARTON MALOW BUILDERS's authority shall not extend to the receipt, inspection, or acceptance on behalf of the Owner of the Equipment at the time of their delivery to the Project premises. BARTON MALOW BUILDERS is not authorized to reject nonconforming Work, stop the Work or terminate the Agreement.
- 23.7 BARTON MALOW BUILDERS may recommend to the Owner rejection of Work that does not conform to the Contract Documents. A recommendation by BARTON MALOW BUILDERS made in good faith shall not give rise to a duty or responsibility of BARTON MALOW BUILDERS to the Owner, Vendor, Sub-Vendors, their agents or employees, or other persons or entities performing portions of the Work.
24. Miscellaneous
- 24.1 The Drawings, Specifications, and other documents, including those in electronic form, prepared by BARTON MALOW BUILDERS and its consultants are instruments of service through which the Work to be executed by the Contractor is described (collectively, the "Instruments of Service"). The Contractor may retain one record set. Neither the Contractor nor any Sub-Vendor or supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by BARTON MALOW BUILDERS or its consultants, and unless otherwise indicated BARTON MALOW BUILDERS and its consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Vendor's record set, shall be returned or suitably accounted for to BARTON MALOW BUILDERS, on request or upon completion of the Work. The Drawings, Specifications and other documents prepared by BARTON MALOW BUILDERS and its consultants, and copies thereof furnished to the Vendor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Sub-Vendor or supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, BARTON MALOW BUILDERS and its consultants. The Vendor, Sub-Vendors or suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by BARTON MALOW BUILDERS and its consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by BARTON MALOW BUILDERS and its consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of BARTON MALOW BUILDERS's or its consultants' copyrights or other reserved rights.
- 24.2 Omitted Not applicable.
- 24.3 The Contract Documents represent the entire and integrated agreement between the parties hereto and supersedes prior and subsequent negotiations, representations, or agreements, either written or oral.
- 24.4 The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between BARTON MALOW BUILDERS and Vendor; (2) between the Owner and a Sub-Vendor; (3) between the Owner and BARTON MALOW BUILDERS; or (4) between any persons or entities other than the Owner and Vendor. BARTON MALOW BUILDERS shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of BARTON MALOW BUILDERS's duties.
- 24.5 The Owner expressly reserves the right to perform activities related to the Project with the Owner's own forces and to award separate contracts in connection with other portions of the Project or other activities at the Project premises. Other vendors under separate agreements with the Owner may concurrently perform construction or other activities for the Project.

- 24.6 The Contract Documents shall be governed by the law of the place where the Project is located without regard to principles of conflicts of law that would require the application of the laws of another state.
- 24.7 The Owner and Contractor respectively represent and warrant that this Agreement has been duly authorized and executed by all necessary and appropriate corporate action and bind themselves, their partners, successors, assigns, heirs and legal representatives to the other party hereto and to partners, successors, assigns, heirs and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Agreement as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Agreement.
- 24.8 The terms of this Agreement are independent of and severable from each other, and neither this Agreement nor any provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason, any other or others of them may be invalid or unenforceable, in whole or in part.
- 24.9 Any notice given in connection with this Agreement shall be sent by registered or certified mail, postage prepaid, to the address set forth or to any other address as such party may designate in writing to the other:

D. Indemnity, Release, Insurance and Security

1. Evidence of Vendor Insurance Coverage – Add WRESA and Barton Malow Builders as additionally insured.

The Vendor shall provide WRESA at the time the Bid Proposal is submitted, Certificates of Insurance and/or policies, acceptable to WRESA, as listed below:

- Certificate of Liability Insurance (Attachment # 5) properly executed. Individual certificates of insurance and/or policies ARE required prior to work commencing.

2. Insurance Requirements

During the performance and up to the date of final acceptance of the work, the Vendor must effect and maintain insurance hereafter listed below:

- a) The Vendor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers Liability Coverage at limits of \$100,000 per person, \$500,000 aggregate, in accordance with all applicable statutes of the State of Michigan.
- b) The Vendor shall procure and maintain during the life of this contract, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions:
 - 1) Contractual Liability;
 - 2) Products and Completed Operations;

- 3) Per contract aggregate.
- c) The Vendor shall procure and maintain during the life of this contract, Motor Vehicle Liability Insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000 per occurrence combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- d) The following shall be Additional Insureds on Commercial General Liability Insurance and Vehicle Liability: Wayne County Regional Educational Service Agency, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees, and volunteers.

This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.

- 3. Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "Sixty (60) days Advance Written Notice of Cancellation or Non-Renewal shall be sent to Purchasing Consultant, Wayne RESA, 33500 Van Born Road, Wayne, MI 48184."
- 4. If any of the above coverages expire during the term of this contract, the Vendor shall deliver renewal certificates and/or policies to Wayne RESA at least ten (10) days prior to the expiration date.
- 5. Indemnification and Hold Harmless – The Vendor shall indemnify and hold harmless WRESA and Barton Malow Builders, its officers, agents, and employees from:
 - a) Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of the Vendor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract.
 - b) Any claims, damages, penalties, costs and attorney fees arising from any failure of the Vendor, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
 - c) WRESA will not indemnify, defend or hold harmless in any fashion the Vendor from any claims arising from any failure on the part of the vendor, its employees or suppliers, regardless of any language in any attachment or other document that the Vendor may provide.
 - d) The Vendor shall reimburse WRESA any expenses incurred as a result of the Vendor's failure to fulfill any obligation in a professional and timely manner under the Agreement.

E. Default and Termination

1. In the event the Vendor shall default in any of the obligations or conditions set forth in the Agreement or their performance does not meet established criteria, WRESA may notify the Vendor of such default in writing.
2. Written notice referred to in this article shall be deemed delivered upon presentation to any person designated by the Vendor as the manager or, in the case of notice by the Vendor, the Associate Superintendent of Administrative & Financial Services or by mailing the same certified or registered mail to the address for the Vendor in the proposal, or the address for RESA in the case of notice by the Vendor.
3. Failure on the part of WRESA to notify the Vendor of default shall not be deemed a waiver by WRESA of WRESA's rights on default of the Vendor and notice at a subsequent time will have the same effect as if promptly made.
3. Upon receipt of notice of default from WRESA, the Vendor shall immediately correct such default. In the event the Vendor fails to correct the default to the satisfaction of WRESA, WRESA shall have all rights accorded by law, including the right to immediately terminate the Agreement. Such termination shall not relieve the Vendor of any liability to WRESA for damages sustained by virtue of any default by the Vendor.
5. The Vendor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the Agreement, and in the event WRESA prevails, the Vendor shall pay all expenses of such action including WRESA's attorney fees and costs at all stages of the litigation.
6. The parties may mutually terminate the contract/agreement that results from this proposal at any time. Either party may terminate the contract/agreement with cause given a sixty (60) day notice to the other party.
7. Termination of the Agreement by WRESA upon default by the vendor shall be sufficient grounds for the forfeiture of any bonds, if required to be posted by the Vendor, and the bonds shall so specify.

F. Taxes

Wayne RESA is exempt from all federal, state and local taxes. WRESA shall not be responsible for any taxes that are imposed on the Vendor. Furthermore, the Vendor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to WRESA. CONTRACTORS ARE TO INCLUDE ALL NECESSARY SALES AND USE TAXES AS REQUIRED IN THEIR BASE BID.

G. Integration

All RFP documents and addendum, vendor's response to this RFP, subsequent purchase orders, and contract with the successful vendor contains the entire understanding between the parties.

III. ATTACHMENTS

Attachment #1: Signature Page

Attachment #2: Vendor Statement of Qualifications

Attachment #3: Familial Disclosure Form **(MUST BE NOTARIZED)**

Attachment #4: Iran Economic Sanctions Form **(MUST BE NOTARIZED)**

Attachment #5: Certificate of Liability Insurance

Attachment #6: Bid Security

Attachment #7: Assurances and Certifications

Attachment #8: Project Safety and Loss

Attachment #9: Scope of work for: HVAC Cleaning

SIGNATURE PAGE

This form must be returned, properly executed.

In compliance with your request for bid proposals, the undersigned proposes to furnish and deliver all labor, services, merchandise or materials in accordance with the accompanying descriptions, bid proposal form, and instructions to vendors.

That this bid proposal is made without any previous understanding, agreement or connection with any other person, firm or corporation making a bid for the same purchase, and is in all respects fair and without collusion or fraud; that no member of the Board of Education of the Wayne County Regional Educational Service Agency, Wayne, Michigan, nor any officer, employee or person whose salary is payable in whole or in part from the treasury of said Board of Education is directly or indirectly interested in this bid or in the supplies, materials, work or services to which it relates, or in any portion of the profits thereof; that all prices herein are net and exclusive of all federal, state and municipal sales and excise taxes; that said bidder clearly understands that Wayne County Regional Educational Service Agency will be the sole judge in determining the quality of merchandise as being equal to or in compliance with the descriptions.

The undersigned is authorized to represent and contract for your organization and certifies that your organization is not on the Federal Suspension and Debarments List or Excluded Parties List.

Company: _____

Name: _____

Signature of above _____

Title: _____

Address: _____

Telephone: _____

Fax Number: _____

Date: _____

Are you a small business? Yes _____ No _____

Are you a minority business? Yes _____ No _____

 If yes, list minority: _____

VENDOR STATEMENT OF QUALIFICATIONS

Company Name: _____ Phone Number: _____

Company Address: _____ Fax Number: _____

_____ Contact Name: _____

_____ Contact Title: _____

Company website: _____ Email: _____

Number of years in business: _____

Company's financial rating: Duns or Bank reference (or the name and address of bank where company's commercial account is located):

List three (3) current or recent **EDUCATIONAL** clients for reference purposes.

Client Data	Description and Date of Service
Name:	
Address:	
Phone Number:	
Contact Name:	
<hr/>	
Name:	
Address:	
Phone Number:	
Contact Name:	
<hr/>	
Name:	
Address:	
Phone Number:	
Contact Name:	

Signature: _____ Title: _____ Date: _____

FAMILIAL RELATIONSHIP DISCLOSURE FORM

SWORN AND NOTARIZED FAMILIAL DISCLOSURE STATEMENT

All Vendor/Contractor(s) submitting proposals must provide familial disclosure and attach this information to the proposal. The proposal will be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or key employee of the vendor submitting a proposal and any member of the Wayne RESA School Board or the Wayne RESA Superintendent. The District will not accept a proposal that does not include this sworn and notarized disclosure statement.

The following are the familial relationship(s):

	<u>Owner/Employee Name</u>	<u>Related to:</u>	<u>Relationship</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

Attach additional pages if necessary to disclose familial relationships.

There is no familial relationship that exists between the owner or key employee of the Vendor/Contractor(s) submitting a proposal and any member of the Wayne RESA School Board, or the Wayne RESA Superintendent.

INDIVIDUAL/FIRM NAME

BY (SIGNATURE)

PRINTED NAME AND TITLE

Subscribed and sworn before me, this _____

Seal:

day of _____, 20 ____, a Notary Public

in and for _____ County, _____

(Signature)

NOTARY PUBLIC

My Commission expires _____

CERTIFICATION OF COMPLIANCE – IRAN ECONOMIC SANCTIONS ACT

Michigan Public Act No. 517 of 2012

The undersigned, the owner, or authorized officer of the below-named Company, pursuant to the compliance certification requirement provided in Wayne RESA’s Request For Proposal, the “RFP”, hereby certifies, represents, and warrants that the Company and its officers, directors and employees, is not an “Iran Linked Business” within the meaning of the Iran Economic Sanctions Act, Michigan Public Act No. 517 of 2012 (the “Act”), and that in the event the Company is awarded a contract by Wayne RESA as a result of the aforementioned RFP, the Company is not and will not become an “Iran Linked Business” at any time during the course of performing any services under the contract.

The Company further acknowledges that any person who is found to have submitted a false certification is responsible for a civil penalty of not more than \$250,000.00 or two (2) times the amount of the contract or proposed contract for which the false certification was made, whichever is greater, the cost of Wayne RESA’s investigation, and reasonable attorney fees, in addition to the fine. Moreover, any person who submitted a false certification shall be ineligible to bid on a request for proposal for three (3) years from the date that it is determined that the person has submitted the false certification.

Contractor:

Print Name of Contractor

By: _____

Its: _____

Subscribed and sworn before me, this _____
day of _____, 20 ____, a Notary Public
in and for _____ County, _____

Seal:

(Signature)
NOTARY PUBLIC

My Commission expires _____

ACORD CERTIFICATE OF LIABILITY INSURANCE DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSUREERS AFFORDING COVERAGE	

INSURED	INSURER A:
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:

COVERAGES
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OF CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YY)	POLICY EXPIRATION DATE(MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> _____ <input type="checkbox"/> _____ GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURENCE	\$
					FIRE DAMAGE (Any one fire)	\$
					MED EXP (Any one person)	\$
					PERSONAL & ADV INJURY	\$
					GENERAL AGGRREGATE	\$
					PRODUCTS-COMP/OP AGG	\$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> _____ <input type="checkbox"/>				COMBINED SINGLE LIMIT (Ea accident)	\$
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/>				AUTO ONLY-EA ACCIDENT	\$
				OTHER THAN AUTO ONLY:	EA ACC AGG	\$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURENCE	\$
					AGGREGATE	\$
						\$
						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below: OTHER				WC STATUTORY LIMITS	OTHER
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE-EA EMPLOYEE	\$
					E.L. DISEASE - POLICY LIMIT	\$
						\$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER	ADDITIONAL INSURED; INSURER LETTER: ___	CANCELLATION
		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OF REPRESENTATIONS
		AUTHORIZED REPRESETNATIVE

33500 Van Born Road
P.O. Box 807
Wayne, Michigan 48184-2497
TDD (734) 334-1716
www.resa.net

BID SECURITY

Bid amounts of twenty thousand dollars (\$20,000.00) or more must be accompanied by a BID SECURITY, for a sum not less than five percent (5%) of the total amount of the bid.

Accompanying the Bid, as required by the Instructions to Bidders, is a bid security in the form of (Bidder to cross out all but one) a Certified Check, a Bank Draft, a Cashier's Check, or a Bid Bond in the amount of:

_____ Dollars (\$ _____) ,
made payable to the Wayne County Regional Educational Service Agency (Wayne RESA), 33500 Van Born Road, Wayne, Michigan 48184-2497, which it is agreed, shall be retained as liquidated damages, not as a penalty, by the Wayne RESA, if the undersigned fails to execute the Contract in conformity with the provisions of the RFP, which becomes the contract upon award, and fails to furnish required bonds within fourteen (14) days after date of issuance of written notice of selection for the award of a Contract to the undersigned.

The Bidder, by submitting his/her Bid, agrees to the following:

1. To hold the Bid open for sixty (60) days following the time and date set for receipt of Bids.
2. To abide by the Instructions to Bidders for disposition of bid security.
3. To execute a Contract with the Wayne RESA.
4. To furnish a Performance Bond and a Payment Bond equal to the total amount of the Bid.
5. To perform the Work in accordance with the proposed RFP/Contract Documents within the time period stated in the agreement.

Respectfully submitted,

The person signing this form must be legally authorized to bind the company and its assets to the terms set forth in this proposal and subsequent Contract.

(If a corporation, affix seal) By _____
Signed _____
Printed _____
Title _____
Company _____
Official Address _____

Date of Bid: _____ Telephone Number (____) _____

**Wayne RESA
33500 Van Born Road
P.O. Box 807
Wayne, MI 48184-2497
734-334-1300
www.resa.net**

Assurances and Certifications

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

The prospective contractor certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded for from participating in this transaction by any Federal department of agency. Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

Certification Regarding Nondiscrimination Under Federally and State Assisted Programs

The applicant hereby agrees that it will comply with all federal and Michigan laws and regulations prohibiting discrimination and, in accordance therewith, no person, on the basis of race, color, religion, national origin or ancestry, age, sex, marital status or handicap, shall be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in any program or activity for which it is responsible or for which it receives financial assistance from the U.S. Department of Education or the MDE.

Assurance Regarding Access to Records and Financial Statements

The applicant hereby assures that it will provide the pass-through entity, i.e., the Wayne County Regional Educational Service Agency, and auditors with access to the records and financial statements as necessary for the pass-through entity to comply with Section 400 (d) (4) of the U.S. Department of Education Compliance Supplement for A-133.

Date _____

Signature

ON-SITE PROJECT SAFETY AND LOSS CONTROL PROGRAM

PART 1 - GENERAL

1.01 SUBCONTRACTOR'S SAFETY REQUIREMENTS

A. Generally

1. In this section CM refers to the Construction Manager .
2. In addition to the requirements set forth in this Section 00810, the Subcontractor shall comply with all terms, conditions and provisions of all applicable laws.
3. The Subcontractor shall assign an individual to act as Safety Representative who will have the responsibility of resolving safety matters, and acting as a liaison among Subcontractor, CM and the Owner. The Safety Representative must be a person who is capable of identifying existing and predictable hazards in surroundings that are unsanitary, hazardous or dangerous to employees, and has the authority to take prompt corrective measures to eliminate them. The Safety Representative must meet the standards for a Competent Person under applicable law when required (scaffolding, confined spaces, etc.) and be on site full time. The Safety Representative or an alternate must attend periodic safety meetings as directed by CM.
4. Subcontractor, through its site supervisors and/or Safety Representative, shall attend a pre-construction meeting where planning for safe execution of the project will be addressed.
5. All on-site employees of either Subcontractor or its Subordinate Parties are required to report any unsafe act or condition and any work-related injuries or illness immediately to a supervisor. If the act or condition can be safely and easily corrected, the employee or supervisor shall make the correction.
6. Subcontractor shall inform CM immediately of the arrival of any federal or state inspector or compliance officer prior to touring the site. Any reports, citations, or other documents related to the inspection shall be provided promptly to Barton Malow.
7. Subcontractor shall be responsible for payment of all safety-related citations, fines and/or claims arising out of or relating to its Work levied against the Owner, Architect, CM, or their employees or affiliates.

B. Additional Barton Malow Requirements

1. Work crews shall conduct a Job Hazard Analysis (JHA) discussion to plan for safe performance before beginning any work task. Subcontractor is encouraged to prepare a written record of each JHA.
2. All workers, management, and visitors shall wear approved hard hats while on site, outside the trailers. Cowboy-style hard hats are prohibited. Hardhats must not be removed to use welding shields. Welding shields must attach to hardhats or be hand held.
3. Sleeved shirts (minimum of four inches), long pants, and durable work boots are required minimum clothing.

4. Personal cell phones are not to be used on construction sites except to report an emergency or on approved break time. Use of business cell phones must not interfere with jobsite safety. The use of camera features on cell phones is strictly prohibited.
5. Personal radios or music players with earphones are not permitted.
6. All persons working at elevations of six feet or greater must have 100% continuous fall protection. Engineering controls are preferred, but personal fall arrest systems are also permissible. An exception is permitted for safe use of ladders up to 24 feet long.
7. Subcontractor is responsible to repair or restore any barricade that it modifies or removes.
8. Class III (household) stepladders are prohibited; metal ladders are strongly discouraged.
9. All scaffolds must be checked daily and before each use for safety compliance. Scaffolds shall never be left in an unsafe condition and must be removed/disabled immediately, if not to be used again.
10. All persons operating cranes must be certified as crane operators by the National Commission on the Certification of Crane Operators (NCCCO). Daily crane inspection reports must be prepared by the operator and kept with the crane, available for inspection.
11. Riding the headache ball is prohibited.
12. All dozers, loaders, tractors and end loader backhoes must have functioning backup alarms.
13. Keep equipment at least 15 feet from energized power lines.
14. Electrical, pneumatic, and other energy systems that could be accidentally energized or started up while work is in process must be locked out (not merely tagged out).
15. Only fire retardant materials may be used to build shanties or other temporary enclosures inside of buildings finished or under construction. Shanties shall be continually policed by their occupants to prevent the accumulation of waste or other combustibles.
16. Engineering controls must be used to restrain silica dust per applicable law.

1.02 Subcontractor's SAFETY SUBMITTALS

- A. Subcontractor shall provide copies of the following written safety submittals to CM at the times indicated:

Submittal	Timing
Contractor Safety Certificate, Barton Malow form SAF 6.3.3.3	Before on-site work begins
Site-specific Safety Program, including substance abuse policy, hazard communication program, and Material Safety Data Sheets (MSDS)	Before on-site work begins
Tool Box Talk Reports	Weekly
Incident Reports (OSHA form 301 or equivalent)	Within 24 hours of incident
Hours worked and incident rates	Monthly (if applicable)

- B. Barton Malow's receipt of the Safety Program or other submittals from Subcontractor does not constitute approval of the Program or submittal or permission to deviate from the requirements of the Contract Documents and applicable law.
- C. Subcontractor will allow inspection of, and CM may request copies of, any and all safety-related documents and records in its possession relating to the Project.

1.03 CM RIGHTS

- A. **Safety Hazard Notifications** may be issued to the Subcontractor when an unsafe act or condition is reported or observed. CM shall not be required to supervise the abatement or associated reprimand of unsafe acts or conditions within a Subcontractor's scope of work as this is solely the responsibility of Subcontractor. Nevertheless, CM has the right, but not the obligation, to require Subcontractor to cease or abate any unsafe practice or activity it notices, at Subcontractor's sole expense.
- B. Subcontractor's failure to comply with the contract safety requirements will be considered a default of the Agreement, and may result in remedial action including, but not limited to, withholding of payment of any sums due or termination.
- C. CM's failure to require the submission of any form, documentation, or any other act required under this Section, 00810, of the Project Manual shall not relieve the Subcontractor from any of its safety obligations.
- D. Nothing in this Section or in this Agreement makes CM responsible or liable for protecting Subcontractor's employees and other Subordinate Parties or assuring or providing for their safety or preventing accidents or property damage.
- E. All requirements referenced in this Section 00810 are binding on Subcontractor and all of its Subordinate Parties, even where such requirements may exceed the standards of applicable law.

1.04 SAFETY RELATED FORMS

- A. The following safety related forms will be provided to the Subcontractor by CM upon request.

Contractor Safety Certificate, Barton Malow Form SAF 6.3.3.3.

Site-Specific Safety Information, Barton Malow Form SAF 6.3.2.1.

Scopes of Work

BID CATEGORY– HVAC Cleaning

The work of this bid category includes but is not limited to providing all labor, equipment, materials, scaffolding, hoisting and incidentals to complete all the HVAC Cleaning in accordance with the specifications, drawings and applicable codes. All work is to be performed as shown on the plans.

In addition to the above, this bid category includes but is not limited to the Bidding Documents, the Bidding and Contract requirements and Division 1 General Requirements of the Project Manual and various other Technical Specifications interfacing with this work. The bidder is advised to review the work descriptions of the other categories and other referenced documents so as to not misunderstand scope responsibilities.

THE SCOPE OF THIS BID CATEGORY SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING ITEMS:

1. It is the responsibility of this Bid Category to review all drawings and drawing notes and include items requiring work that is generally defined as the responsibility of this Bid Category within the work description.
2. This contractor is responsible for only the HVAC cleaning work shown on the mechanical drawings. All other work is not included in this scope of work.
3. Contractor to include in their base bid costs for all permits and fees required to perform the work contained in this category, from the appropriate agencies.
4. This contractor is responsible for thoroughly cleaning the internal components of the ductwork and HVAC units. Clean the interior surfaces of the connecting supply and return air ductwork. Clean the related supply diffusers and air grilles. Clean the interior surfaces of all bathroom exhaust ductwork, all related exhaust fans and all exhaust grilles.
5. This work scope shall be responsible for completing work in accordance with NADCA guide specification section 230130.51 "HVAC Air Distribution Cleaning" and the NADCA standard ACR 2021 edition.
6. All work performed must adhere to the guidelines established by National Air Duct Cleaners Association Standard #ACR-2021.
7. Repairs, replacement or resurfacing to fiberglass lining or flex duct, if needed, will be handled via allowance and unit pricing. **Do not include this work in base bid.**
8. Contractor is responsible for visiting the site prior to bid and verifying all quantities and locations listed on the drawings and spec.
9. This contractor will be responsible for all re-mobilization costs if needed.
10. All work shall be performed by trained and qualified personnel only. This work must be managed by a NADCA certified "Air System Cleaning Specialist (ASCS).
- 11. This work is to be performed during evening hours of 4pm – 12am, M-F.**
12. Provide daily cleanup according to Barton Malow standards, including daily removal of all materials and debris related to this category. Provide for debris removal from the site.

13. This contractor is to provide all labor to dispose of debris that is a result of their own work into a dumpster provided by BMB at the site.
14. This Contractor shall notify the construction manager immediately of any unsatisfactory conditions so a corrective action plan can be developed.
15. This contractor shall be responsible for receiving, off-loading, hoisting into/onto building including the safe and secure storage of materials related to this work.
16. This contractor is responsible for all layout, engineering, elevations, and layout coordination with other contractors.

EXCLUDED FROM THIS CONTRACTOR'S WORK IS:

1. Ceiling access, if needed, to ductwork where none exists.
2. Repair, replacement or resurfacing of fiberglass lining or flex duct.

ALLOWANCES: Include an allowance of \$30,000 in bid.

Bidder is to include the proper mark up and profit in the bid on the allowance amount. Markup will not be allowed when billing for allowance.

Unused portions will be deducted from the contract in the form of a change order.

Prior to use of the allowance, a quote is to be approved, or a time and material directive is to be given by the Construction Manager. Time tickets are to be signed on a daily basis.

SPECIAL CONSIDERATIONS:

1. All demolition work is assigned to the individual contractors that are responsible for the particular material or work in question. The contractor is to perform all demolition of the materials assigned in the specification sections listed in their own Description of Work, unless otherwise noted.
2. Provide adequate supervision of your sub-contractors and your field personnel. This includes a field superintendent responsible for all work with the ability to make decisions.
3. All contractors to provide all dumpsters and spoil / trash removal as required for the performance of their work. All material to be sent to a certified trash collection or recycling facility.
4. ALL contractors have final cleaning as required of all work connected to their scope of work of the project

END OF BID CATEGORY HVAC CLEANING