



Combined Request for Qualifications and Request for Proposals

For progressive design-build project delivery under Indiana Code Section 5-30
for projects valued at less than \$5,000,000, as amended

This **COMBINED REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSAL** ("RFQ/RFP") from the Owner named below invites the submittal of Combined Verified Statement of Qualifications ("VSQ") and Progressive Design-Build Proposal ("Proposal") from firms interested in providing design-build services for the Project described below. By submitting a VSQ and Proposal, the Offeror represents that it has carefully read the terms and conditions of this RFQ/RFP and all attachments and Addenda and agrees to be bound by them. This RFQ/RFP is not an offer to enter into a contract, but merely a solicitation of persons interested in submitting a VSQ and Proposal to the Owner for the Project.

OWNER:

(Name and address)

North White School Corporation
402 East Broadway Street
Monon, IN 47959

PROJECT:

(Include Project name and location)

2024 Culinary Arts Project
North White Middle-High School
305 East Broadway Street
Monon, IN 47959

OWNER CONTACT PERSON:

All communications through the Owner's Design Criteria Developer:

Daniel D. Rawlins, RA, DBIA
The **Rawlins Group**, LLC
(317) 441-7905
dan@therawlinsgroup.com
6706 Marmont Circle
Indianapolis, IN 46220

DELIVER PROPOSAL TO:

North White School Corporation
Administrative Office
402 East Broadway Street
Monon, IN 47959
Attention: Nick Eccles, Superintendent

PROPOSAL DUE DATE AND TIME:

Proposals shall be submitted no later than:

Friday, **May 24, 2024**
2:00 PM | Eastern Daylight Saving Time

All Verified Statements of Qualification and Proposals must be submitted pursuant to the instructions below. It is the Offeror's sole responsibility to ensure that the Proposal is delivered in the manner required in this RFQ/RFP by the Due Date and Time. Owner has the right to reject any VSQ's / Proposals not properly delivered.

SECTION 1: GENERAL INFORMATION

1.1. Owner Description

- 1.1.1. North White School Corporation, located in White County, Indiana serves the residents of Honey Creek, Liberty, and Monon Townships, which includes the towns of Buffalo, Monon, and Reynolds.
- 1.1.2. The School Corporation currently operates two facilities, North White Elementary School and North White Middle-High School, both located in Monon, Indiana.
- 1.1.3. The 2023-2024 Enrollment for the School Corporation, according to the Indiana Department of Education is 898 students, grades PreK-12.
- 1.1.4. The purpose of this progressive design-build project is to provide appropriate space for a new culinary arts program by renovating existing space at North White Middle-High School, and other work as may be appropriate.

1.2. Funding / Authority

- 1.2.1. The Owner will use allocated in-hand school funds for a project funding of approximately \$1,000,000.
- 1.2.2. The Owner and selected Design-Builder will collaboratively work together to confirm a comprehensive budget breakdown of all costs associated with the project during Design-Builder's Step 1 Progressive Design-Build Services, however the maximum total project budget established by the appropriation process cannot be exceeded.
- 1.2.3. The Design-Builder will include the confirmed budget as part of the Design-Builder's Step 1 Progressive Design-Build Report to be approved by the Board of School Trustees.

1.3. Access to RFQ/RFP | Communications during the Procurement Process

- 1.3.1. Legal Notice of Combined Request for Qualifications / Request for Proposal (RFQ/RFP) is published on April 24, 2024 and is adopted by reference to this RFQ/RFP as Attachment B-1.
- 1.3.2. As of the Date of Publication of Legal Notice of RFQ/RFP noted above, until the completion of the procurement process, all prospective Design-Builder must communicate with the Owner, its Board Members, its employees, TRC members and agents solely through the Owner's Design Criteria Developer:

Daniel D. Rawlins, RA, DBIA
The **Rawlins Group**, LLC
6706 Marmont Circle
Indianapolis, IN 46220
(317) 441-7905
dan@therawlinsgroup.com

Any Design-Builder who otherwise contacts any employee, agent, TRC Member, appointed official or elected official of the Owner between the date of Notification of the RFQ/RFP and the award of the Design-Build Contract is subject to disqualification at the sole and complete discretion of the Owner.

- 1.3.3. This RFQ/RFP and additional Project Information is available on the School Corporation Website: www.nwhite.k12.in.us.

1.4. Definitions

Business Day:	Any day on which the Owner's central office is open for regularly conducted business
Confidential Individual Interviews: (Breakout Interviews)	Confidential individual meetings between the Owner/TRC and a Proposing Design-Build Team for the purpose of interviewing teams submitting qualifications or proposals, as allowed by IC 5-30-4-4(b). The purpose of confidentiality is to protect the proprietary intellectual property of the proposer. All TRC business is conducted in open meetings in accordance with IC 5-30-4-4 and IC 5-14-1.5.

Design-Builder:	The entity that is party to the prime Design-Build Contract with the Owner.
Design-Build Team:	<p>All <u>entities</u> identified by the Design-Builder as providing design, construction, or other services on the Project.</p> <ul style="list-style-type: none"> • Design-Build Team members may become engaged at any point in the project, upon their identification as team members by the Design-Builder. • A proposing Design-Builder must identify all team members it has included on the team at the time of the Proposal, as well as any team members it anticipates including in the future if selected as Design-Builder. • For the purposes of scoring Qualitative Proposals, the TRC will only consider those Design-Build Team members identified at the time of Proposal.
Key Team Member:	<u>Individuals</u> who will be assigned to the Project as part of the Design-Build Team and will play an important role in the design, construction and/or management of the Project.
Local Participation:	<p>Local is defined as concentric rings of proximity to the project site:</p> <ul style="list-style-type: none"> • <u>Most Local</u> is a business entity located in White County, Indiana and paying taxes to the County; • <u>Next Most Local</u> is a business entity located in a County bordering White County, Indiana; and • <u>Local</u> is a business entity located within ninety (90) miles of the Project Site.
Open House:	A scheduled time for proposing Design-Build Teams to have access to the Project Site for the purpose of gaining an understanding of the existing conditions under which the Project must be executed prior to submitting a Proposal. Open House dates and times are scheduled in Section 2.5 of this RFQ/RFP. Attendance by a Design-Build Team must be confirmed through the Owner's Design Criteria Developer in advance.
Procurement:	The Owner's process for selecting a Design-Build Team for this Project. For this Project, the Procurement Process is Progressive Design-Build Project Delivery in accordance with IC 5-30.
Projects of Similar Scope and Complexity	<p>Projects that have achieved Substantial Completion and have many or all of the following characteristics:</p> <ul style="list-style-type: none"> • Projects of similar size and budget that include classroom renovations and/or adding culinary arts programs to existing school facilities. • Projects that utilize an integrated delivery method that requires strong coordination and integration of the design and construction professionals and early involvement of the construction professionals during design. (<i>Either Design-Build or CMc Delivery</i>) • Projects where the Design-Builder was selected prior to establishment of the final design, price and schedule; where the Design-Builder collaborated with the Owner to develop the design, price and schedule (<i>Progressive Design-Build</i>)

SECTION 2: OVERVIEW OF THE PROJECT

2.1. Project Goals and Objectives

- 2.1.1. The Owner's Goals and Objectives for the Project are defined in Attachment A-1 to this RFQ/RFP, which are adopted into this document by reference.

2.2. Project Scope

- 2.2.1. The proposed project scope is defined in the following attachments to this RFQ/RFP, which are adopted into this document by reference:
 - Attachment A-2 Site Constraints
 - Attachment A-3 Design Performance Systems Narrative
- 2.2.2. The final scope of the Project will be confirmed through the Progressive Design-Build Process in the Design-Builder's Step 1 Report as approved by the Owner.

2.3. Project Delivery

- 2.3.1. This project will be completed using Progressive Design-Build Project Delivery per IC 5-30.
- 2.3.2. This solicitation is a combined Request for Qualifications (RFQ) and Request for Proposal (RFP) ("RFQ/RFP") as allowed for projects valued at less than \$5,000,000 per IC 5-30-5-1(c).
- 2.3.3. The Owner intends to undertake the process outlined in this RFQ/RFP and as set forth in IC 5-30-7 to identify and select the Design-Builder that is both Highly Qualified and provides the Best Value Proposal to the taxpayer.
- 2.3.4. Offerors must submit their Verified Statements of Qualifications and Proposal ("VSQ / Proposal") pursuant to the schedule and process set forth in this RFQ/RFP. This RFQ/RFP is not an offer to enter into a Contract. It is merely a solicitation of Design-Build Entities interested in submitting a VSQ / Proposal to the Owner for the Project.
- 2.3.5. Owner intends to evaluate VSQs / Proposals received in accordance with IC 5-30 and the process outlined in this RFQ/RFP. Owner will identify the Design-Build Entity submitting the Proposal earning the lowest adjusted price score per IC 5-30-7-6. ("Best Value Proposer") calculated in accordance with IC 5-30-7-5 and enter into Contract Negotiations using a two-phase Progressive Design-Build process.
 - 2.3.5.1. No design work will be required of Proposals as part of the RFQ/RFP, however proposers must verify whether or not the project can be completed within the Owner's budget as part of the Price Proposal.
 - 2.3.5.2. Upon selection, the Owner will issue to the Design-Builder a Letter of Intent to Execute a Design-Build Contract ("LOI") and Notice to Proceed ("NTP") with Step 1 Progressive Design-Build Services. The selected Design-Builder will be compensated for its Step 1 Progressive Design-Build Services upon submittal of the Step 1 Report to the Owner.
 - 2.3.5.3. Preliminary design work, budgeting, scheduling, other planning and negotiation of contract terms will be performed by the selected Design-Builder in close collaboration with the Owner as part of Design-Builder's Step 1 Services. The Design-Builder shall provide Step 1 Progressive Design-Build Services as outlined in RFQ/RFP Section 2.4.1 below and submit a Step 1 Report to the Owner.
 - 2.3.5.4. Upon receipt of the Design-Builder's Step 1 Report, the Owner may take one of three (3) possible actions:
 - 2.3.5.4.1. Accept the Step 1 Report as presented, execute the Design-Build Contract and issue to the Design-Builder a Notice to Proceed with Step 2 Progressive Design-Build Services. This completes Contract Negotiations authorized by IC 5-30-7-8
 - 2.3.5.4.2. Negotiate further modifications to the Design-Builder's Step 1 Report prior to accepting the amended report, execute the Design-Build Contract and issue to the Design-Builder a Notice to Proceed with Step 2 Progressive Design-Build Services. This completes Contract Negotiations authorized by IC 5-30-7-8
 - 2.3.5.4.3. Reject the Step 1 Report and terminate negotiations with the Best Value Proposer. The Design-Build Agreement will not be executed with the Best Value Proposer. This option exercises the "Off-Ramp" provisions of the LOI. This terminates negotiations with the initially accepted offeror, in accordance with IC 5-30-7-8(b)(1) and Owner may initiate negotiations with the next lowest adjusted price offeror in accordance with IC 5-30-7-8(b)(2).

2.3.5.5. Regardless of which option the Owner exercises from RFQ/RFP Section 2.3.4.4 above, the Owner shall pay the Design-Builder for the Work of the Step 1 Report. Upon receipt of payment for the Report, the Design-Builder shall grant the Owner a limited license to use the intellectual property of the Report for the Project.

2.3.6. Step 2 Progressive Design-Build Services will be authorized by the execution of the Design-Build Agreement and a Notice to Proceed with Step 2 Progressive Design-Build Services. The extent of Step 2 Services will be per the Agreement, as negotiated during the performance of Step 1 Services. All terms and conditions of the Agreement are negotiable, except for those specifically noted as non-negotiable in the RFP, attachments and all addenda

2.4. Design-Builder's Services Under the Progressive Design-Build Contract

2.4.1. STEP 1: PROGRESSIVE DESIGN-BUILD SERVICES

2.4.1.1. Review and Confirm Owner's Space Program and Project Performance Needs

2.4.1.1.1. Meet with the Owner's staff and stakeholders to review and confirm the project goals and objectives, site constraints, preliminary space program and design performance systems requirements (All part of Attachment A to this RFQ/RFP) can be accomplished within the Owner's target budget, exclusive of furnishings and loose equipment.

2.4.1.1.2. Document the review process with meeting minutes and updated Attachment A Exhibits that are to be included as appendices to the Step 1 Report.

2.4.1.2. **Develop a Detailed Cost Model:** Prior to beginning design, develop a detailed cost model that accounts for the entire project budget, including Design-Build services and all Owner's project soft costs and financing costs.

2.4.1.2.1. Develop the cost model in a manner that is easily understood by all stakeholders, allows tracking the impact of design evolution, potential trade-off decisions and advancement of the design in a design-to-budget process, as well as tracking costs as the project moves from design to construction.

2.4.1.2.2. Develop the cost model to a level of detail that is no less than the project narrative described below.

2.4.1.2.3. Develop any contingencies or allowances in collaboration with the Owner. Define the review and approval mechanisms by which contingencies or allowances may be committed to project scope.

2.4.1.2.4. Obtain Owner's concurrence with the Cost Model and accompanying cost control assumptions prior to commencing design work.

2.4.1.2.5. Adjust the cost model as the design is advanced.

2.4.1.3. **Provide Preliminary Design Services:** Document the design to a level of detail required to achieve understanding by the Owner of the proposed design and scope of the project as well as to allow mutual commitment to a Guaranteed Maximum Price (GMP) or Lump Sum Price for the Design-Build Contract at the time the Step 1 Report is submitted. As a minimum, provide the following drawings:

2.4.1.3.1. Floor Plan

2.4.1.4. **Provide Scope Narrative | Performance Metrics:** As part of the Step 1 Report, provide a complete scope narrative that fully defines the quality and features of the proposed project.

2.4.1.4.1. Narrative to be submitted in the Construction Specifications Institute UniFormat®, to a minimum of level 3 detail.

2.4.1.4.2. Identify all building components and systems listed in the UniFormat index at level 3 detail.

2.4.1.4.3. If a particular component or system listed in the index has no work for this project, indicate so by stating "No Work" for that item.

- 2.4.1.4.4. If a particular component or system has work as part of this project, provide a description of the work, proposed systems, basis of design products, and other descriptors that will help the Owner understand what is being proposed.
- 2.4.1.4.5. The narrative may be developed in greater detail than Level 3 for certain systems at the discretion of the Design-Builder
- 2.4.1.4.6. The narrative may be supplemented by calculations, equipment cuts, samples or other information that may further inform the Owner's understanding of the scope and quality of the Work proposed in the Step 1 Report.
- 2.4.1.5. **Provide a Project Schedule and Permitting Plan:** Provide a detailed schedule for the execution of Step 2 Progressive Design-Build Services, including, but not limited to:
 - 2.4.1.5.1. Completion of Design, including all scheduled design review meetings, Owner acceptance actions, etc.
 - 2.4.1.5.2. Permitting, Reviews and Approvals. Identify each Authority Having Jurisdiction, each type of permit, review, submittal, variance, waiver, etc. required. Identify submittal deadlines and review timeframes for each. Identify the role and responsibilities of the Owner and Design-Builder in obtaining each required permit, review, approval, variance or waiver.
 - 2.4.1.5.3. Trade Contractor Engagement of team members not already on the team at the time the report is submitted
 - 2.4.1.5.4. Submittals: Identification of each Action Submittal, date of submittal for Owner review and timeframe for Owner review. (See RFQ/RFP Attachment A-4)
 - 2.4.1.5.5. Mobilization for Construction
 - 2.4.1.5.6. Building Support Systems (By System)
 - 2.4.1.5.7. Interior Construction and Finishes
 - 2.4.1.5.8. Starting of Systems and Commissioning
 - 2.4.1.5.9. Substantial Completion
- 2.4.1.6. **Provide a Site-Specific Mobilization and Safety Plan**
 - 2.4.1.6.1. Provide a site diagram indicating limits of Construction, security controls for construction zone and site vehicular and pedestrian patterns. Include parking areas for staff and for construction workers. Show how construction materials will be delivered, laydown areas, etc.
 - 2.4.1.6.2. Provide a safety plan for site workers and school personnel
 - 2.4.1.6.3. Provide a safety training, communications and reporting plan
- 2.4.1.7. **Provide a Construction Phase Quality Assurance and Quality Control Plan**
 - 2.4.1.7.1. Provide a written QA/QC plan that identifies all origination/pre-check procedures, checking and testing procedures, tracking procedures and final verification procedures.
 - 2.4.1.7.2. Identify each type of field testing and inspection to be conducted, frequency and responsibility
 - 2.4.1.7.3. Provide a commissioning plan
- 2.4.1.8. **Negotiate an Executable Design-Build Contract and Contract Price:** Provide an executable Design-Build Contract, with all terms and conditions fully negotiated and agreeable to both Owner and Design-Builder, including the Contract Price as either a GMP or Lump Sum.
 - 2.4.1.8.1. Provide a Schedule of Values that establishes in detail the Basis of Contract Price in no less detail than the original pre-design cost model.
 - 2.4.1.8.2. Provide a summary of deviations between the Step 1 Report Schedule of Values and the pre-design cost model, along with a brief explanation of the reason for each line-item variation.

2.4.1.9. Provide a Written Step 1 Report to the Owner

- 2.4.1.9.1. Present a final draft of the Report to the Owner's governing body and stakeholders in a public work session
- 2.4.1.9.2. Make any adjustments to the Report as may be appropriate after the draft review and submit a final copy of the Report to the Owner for action/approval.

2.4.2. STEP 2: PROGRESSIVE DESIGN-BUILD SERVICES

- 2.4.2.1. Complete design and permitting for the Project
 - 2.4.2.2. Complete procurement of all goods and services required to construct the Project.
 - 2.4.2.3. Mobilize for construction
 - 2.4.2.4. Monitor Quality Assurance and Quality Control measures during Construction.
 - 2.4.2.5. Establish, implement and maintain a site-specific safety program throughout the Construction and Close-Out phases
 - 2.4.2.6. Complete Construction
 - 2.4.2.7. Achieve Substantial Completion for the entire project
 - 2.4.2.8. Achieve Final Completion for the entire project, including resolution of any non-conforming work issues
 - 2.4.2.9. Provide follow-up for all warranty items that become known prior to 1-year after the Date of Substantial Completion. Provide follow-up on each item until it is fully resolved, regardless of the timeframe of final resolution.
 - 2.4.2.10. Assist the Owner in optimizing the Building Management System for best balance of operating comfort and energy efficiency. Provide optimization services for a period of at least two years past the Date of Substantial Completion
- 2.4.3. By submitting a VSQ/Proposal pursuant to the RFQ/RFP, the Offeror represents and warrants that the Project Goals, Objectives, Scope, Schedule and Budget set forth in the RFQ/RFP are realistically attainable through a Progressive Design-Build Contract.
- 2.4.4. By submitting a VSQ/Proposal pursuant to the RFQ/RFP, the Offeror represents and warrants that it will enter into the First Phase of the Progressive Design-Build Contract provided by the Owner in the RFQ/RFP, subject to terms set forth in its Proposal and incorporated into the Letter of Intent issued by the Owner.

2.5. Project Procurement Schedule

- 2.5.1. The following is the Project Procurement Schedule. The Owner reserves the right to modify the Project Procurement Schedule via Addendum to the RFQ/RFP up to seven (7) days prior to the date set forth for the submission of VSQ's / Proposals:

Date (All Times are Eastern Time Zone)	Event
April 24, 2024	Legal Notice of Request for Progressive Design-Build Qualifications / Proposal Issued <ul style="list-style-type: none">RFQ/RFP available on School Corporation Website or through Design Criteria Developer
April 29, 2024 5:00 PM	Deadline to request Pre-Submittal Breakout Session
April 30, 2024 to May 3, 2024 2 TBD	Pre-Submittal Breakout Interviews (See Section 3.9)
May 24, 2024 2:00 pm	Design-Builders' Submittals Due (See Section 3.12) <ul style="list-style-type: none">Verified Statement of QualificationsQualitative ProposalSealed Price Proposal

Date (All Times are Eastern Time Zone)	Event
May 31, 2024 5:00 pm	Deadline to submit self-reporting forms from Design-Builders' listed references (See Section 3.10) Qualitative Proposal Interview Schedule Issued by Design Criteria Developer (See Section 3.13)
June 5, 2024 TBD	Qualitative Proposal Interviews Confidential Individual Interviews with TRC (See Section 3.14)
June 5, 2024 1:00 PM EDT Administration Building	Public TRC Meeting to Score Qualitative Proposals (See Section 3.14)
June 5, 2024	Price Proposal Opening – Immediately Following Public TRC Meeting (See Section 3.15)
June 10, 2024	School Board Meeting <ul style="list-style-type: none"> Award Design-Build Project, subject to final negotiation of contract terms Issue Letter of Intent and Notice to Proceed with Step 1 Progressive Design-Build Services
<i>Dates from this point forward are subject to selected Design-Builder's Step 1 Schedule</i>	

SECTION 3: PROCUREMENT PROCESS

3.1. Compliance with Legal Requirements

- 3.1.1. This Procurement will be in accordance with the Indiana Public Works Design-Build Law, Indiana Code Section 5-30, as amended, and all applicable federal, state, and local laws.
- 3.1.2. Any on-site staff of the Design-Build team must comply with Owner's policies for conduct of non-certified staff, as well as other applicable Owner policies and procedures

3.2. Conflict of Interest and Communication with Owner

- 3.2.1. Consultants who assist the Owner in the RFQ/RFP preparations may not propose or participate on any Design-Build Team on this Project.
- 3.2.2. Members of the Owner's Technical Review Committee (TRC) may not propose or participate on any Design-Build Team on this Project.
- 3.2.3. Offerors are required to conduct the preparation of their VSQs / Proposals with professional integrity and free of lobbying activities. Communication with the Owner regarding this Project shall be via email or regular mail only and directed to the Owner's Design Criteria Developer noted in Section 1.3.2 above.

Do not communicate about the Project or the Procurement with any other Owner employees, TRC members, representatives, or consultants. Communication with other Owner employees, TRC members, representatives, or consultants regarding the Procurement may cause the firm involved in prohibited communications to be disqualified from submitting under this Procurement.

Any verified allegation that a responding Offeror or Team Member or an agent or consultant of the foregoing has made such contact or attempted to influence the evaluation, ranking, and/or selection of short-listed Offerors may be the cause for Owner to disqualify the Offeror team from submitting an VSQ / Proposal, to disqualify the Team Member from participating in the Procurement, and/or to discontinue any further consideration of such Offeror or Team Member.

The members of the Owner's Technical Review Committee (TRC) are:

Dean Cook	TRC Member	<i>Contractor NWSC Director of Transportation</i>
Nick Eccles	TRC Member	<i>Superintendent</i>
Daniel Rawlins	TRC Member	<i>Architect, Design Criteria Developer</i>

Additionally, some School Corporation administrators, staff and faculty may be invited to participate in TRC meetings as advisors to the TRC.

3.3. Expenses of Offeror and Stipend

- 3.3.1. The Owner accepts no liability for the costs and expenses incurred by firms in responding to this Procurement. Each Offeror that enters into the Procurement process shall prepare the required materials, the VSQ and the Proposal at its own expense and with the express understanding that the Offeror cannot make any claims whatsoever for reimbursement from the Owner for the costs and expenses associated with the process, even in the event the Owner cancels this Project or rejects all Proposals.
- 3.3.2. Due to the simplicity of RFP submittals required by the Owner for this Project, the Owner will not be paying a stipend to the Offerors submitting responsive Proposals to the RFP that remain in competition until the point of Contract award but who are not awarded the Design-Build Contract.

3.4. Public Disclosure

- 3.4.1. All documentation and submittals provided to the Owner may be considered public documents under applicable laws and may be subject to disclosure. Offerors recognize and agree that the Owner will not be responsible or liable in any way for any losses that the Offeror may suffer from the lawful disclosure of information or materials to third parties.
- 3.4.2. Any materials requested to be treated as confidential documents, proprietary information, or trade secrets must be clearly identified and readily separable from the balance of the VSQ or Proposal. Such designations will not necessarily be conclusive, and Offerors may be required to justify why such material should not, upon written request, be disclosed by the Owner under the applicable public records act.
- 3.4.3. The Owner will endeavor to provide at least two (2) Business Days' notice to the Proposer of a public records request for material submitted pursuant to this Procurement. Offerors must respond to the notice in writing with any objection to the production of the documents within two (2) Business Days of receipt of the notice, or the requested documents will be released in accordance with the Owner's policy for responding to such requests.
- 3.4.4. The Owner will not honor any requests for Access to Public Records until after the Procurement Process has been concluded, either by termination of negotiations or execution of Design-Build Contract with the selected Design-Builder.

3.5. Protest Procedures: The protest procedures applicable to the Procurement are as follows:

- 3.5.1. All protests will be directed, in writing, to the Owner's Design Criteria Developer identified in Section 1.3.2 of this document.
- 3.5.2. Any Protest based on the form or content of the Procurement Documents, which is or should have been apparent prior to the date established for submittal of the VSQ or Proposal, will not be considered if received by the person set forth above later than seven (7) calendar days prior to the specified submittal date.
- 3.5.3. Protests based on any other circumstances must be received by the person noted above within five (5) business days from the date the Offeror or Short-Listed Offeror was notified of any selection decision; however, in no event will a protest be considered if all VSQ or Proposals are rejected or if the Protest is received after award of the Contract.
- 3.5.4. To be considered, a Protest shall be in writing and shall include: (1) the name, street address, and email address of the aggrieved party; (2) the name of the Project for which the Protest is submitted; (3) a detailed description of the specific grounds for the Protest and any supporting legal and/or factual documentation; and (4) the specific ruling or relief requested.
- 3.5.5. In computing any period of time prescribed by this procedure, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period shall be included. Any document received after the close of regular business hours (7:30 a.m. to 4:30 p.m., Central Time) shall be deemed received the following Business Day.
- 3.5.6. The Owner's Design Criteria Developer will initially review the Protest, and may upon review: (1) Act upon the Protest to grant the ruling or relief requested; (2) Deny the Protest on the basis of information provided in the Protest if the facts do not support validity of the Protest; or refer the Protest for review by the Board of School Trustees.

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- 3.5.7. The decision of the Owner's Design Criteria Developer, if not reviewed by the Board of School Trustees may be appealed to the Board of School Trustees. The decision of the Board of School Trustees is final and binding.
 - 3.5.8. By submitting a VSQ and Proposal in response to this Procurement, the Offeror acknowledges that it has reviewed and acquainted itself with the protest procedures herein and agrees to be bound by such procedures as a condition of submitting a VSQ and Proposal.

3.6. Owner's Rights and Procurement Conditions: The Owner reserves without limitation, and may exercise at its sole discretion, the following rights and conditions with regard to this Procurement process

- 3.6.1. To cancel the Procurement process and reject any and all VSQs and/or Proposals
- 3.6.2. To waive any informality or irregularity
- 3.6.3. To revise the Procurement Documents and Schedule via an Addendum
- 3.6.4. To reject any Offeror that submits an incomplete or inadequate response or is not responsive to the requirements of this RFQ/RFP
- 3.6.5. To require confirmation of information furnished by an Offeror, require additional information from an Offeror concerning its VSQ or Proposal and require additional evidence of qualifications to perform the work described in this RFQ/RFP or a subsequent RFP
- 3.6.6. To seek or provide clarifications, or conduct discussions, at any time, with one or more Offerors
- 3.6.7. To contact references who are not listed in the Offeror's VSQs and investigate statements on the VSQs and/or qualification of the Offeror and any firms or individuals identified in the VSQ
- 3.6.8. To consider Alternative Technical Concepts and/or approaches identified by Offerors
- 3.6.9. To take any action affecting the RFQ/RFP process or the Project that is determined to be in the Owner's best interests
- 3.6.10. Approve or disapprove of the use of particular Subconsultants, Subcontractors, or Key Team Members and/or substitutions and/or changes to Subconsultants, Subcontractors, or Key Team Members from those identified in the VSQ or Proposal. Such approval or disapproval shall not be unreasonably exercised

3.7. Project Site

- 3.7.1. Offerors should visit the Project Site, review available site documentation, and become familiar with existing conditions prior to submitting a Proposal.
- 3.7.2. Site visits may be conducted by appointment. Arrange to visit the site through the Owner's Design Criteria Developer.
- 3.7.3. Offerors should become familiar enough with the Project Site during the proposal phase to ascertain whether the Project described in the Owner's Project Criteria can be attained within the Owner's Project Budget and to understand the entire process of site design optimization that will be required as part of the Design-Builder's Step 1 Progressive Design-Build Services.
- 3.7.4. Offeror's Qualitative Proposals shall include the process to be undertaken during Step 1 Progressive Design-Build Services to complete site investigation due diligence. This includes any survey, geotechnical or environmental study work.
- 3.7.5. The selected Design-Builder will execute site due diligence and preliminary site design as part of its Step 1 Progressive Design-Build Services. The Design-Builder's Step 1 Report will fix and describe the scope of Project Site and assign an appropriate budget for sitework, including an allowance for subsurface conditions expected to be encountered.

3.8. North White Middle-High School Site Visit Opportunities

- 3.8.1. Between the time the Legal Notice of RFQ/RFP is published, until the week prior to the date Design-Builders' submittals are due, the Owner will make the Project Site available for inspection by proposing Design-Build Teams by appointment.

- 3.8.2. So as not to disrupt the Owner's ongoing activities at the Project Site, Design-Build Teams are not allowed to visit the Project Site without an appointment.
- 3.8.3. Site visit dates and times requested by proposing Design-Builders are not guaranteed. They are subject to verification with the Project Site and may be denied due to conflict with special activities. Proposing Design-Builders desiring to visit the Project Site must confirm access with the Owner's Design Criteria Developer at least 4 hours prior to visiting the site.

3.9. Pre-Proposal Meetings

- 3.9.1. An opportunity has been established for proposing Design-Builders to meet confidentially and informally with the Owner in maximum 1-hour pre-proposal breakout interviews prior to the date and time Design-Builders' Submittals are due. (See Section 2.5)
- 3.9.2. Design-Builders must request an interview prior to the deadline identified in Section 2.5.
- 3.9.3. Breakout interviews are intended as a time for the proposing Design-Builder to gain a deeper understanding of the Owner's goals and objectives for the project and to understand project nuances.
- 3.9.4. For the Owner it is a time to experience interaction with the Design-Builder and observe their leadership and team chemistry. The Owner does not desire, and will not appreciate, a sales pitch from Design-Build teams. The Owner would appreciate a chance to get to know the key individuals with whom they would be working if this Design-Build Team were selected.
- 3.9.5. The Owner and Design-Criteria Developer do not know how many Design-Builder intend to respond to this solicitation or will request breakout sessions.
 - 3.9.5.1. Therefore, meetings will be scheduled in the order they are received. Teams may not request specific dates and times.
 - 3.9.5.2. Meetings will take place electronically or in person on the scheduled dates. TRC members and school administrators will attend as they are available.
 - 3.9.5.3. Upon requesting a session through the Owner's Design Criteria Developer, the Design Builder will receive a confirming e-mail with meeting logistical information.
- 3.9.6. Design-Builders are responsible for format and content of their breakout session.

3.10. Proposed Changes in the Design-Build Contract Documents

- 3.10.1. Prior to or at the pre-proposal breakout meeting, Offerors may propose changes to the Contract Documents, including but not limited to the insurance requirements, Owner's Project Criteria, Design-Build Contract, or the General Terms and Conditions for any items that are not specifically required by Law. The Owner's goals in requesting such proposed changes are:
 - 3.10.1.1. To discover provisions in the Contract Documents that unnecessarily increase the cost of the Project or complicate the performance of the Work, and
 - 3.10.1.2. To identify contract provisions and commercial terms the Design-Builder intends to negotiate if selected.
- 3.10.2. Therefore, with every proposed change to the RFP and Contract Documents, Offerors must include the following information:
 - 3.10.2.1. The document and section number;
 - 3.10.2.2. Proposed alternate language;
 - 3.10.2.3. An explanation for the requested change; and
 - 3.10.2.4. Any impact the requested change has on any commercial term in the Contract Documents or Owner's Program.

- 3.10.3. The Owner may discuss any proposed changes during the Pre-Proposal Breakout Meeting or Qualitative Proposal Interview. The Owner reserves the right to reject any and all proposed changes and to accept any proposed change to the Contract Documents via Addendum to the RFP. The Owner also reserves the right to negotiate such provisions with the selected Offeror, with the final disposition of such negotiations included in the Step 1 Report.

3.11. Available Information

- 3.11.1. Existing Building documentation exists in paper and electronic media, is being collected and when available will be posted to a project website maintained by the Design Criteria Developer. Contact the Design Criteria Developer for access. Any hardcopy documentation available will be assembled at School Corporation Administrative Offices and will be available for review with an appointment during normal business hours.
- 3.11.2. The Owner's Criteria Package is available for download on the School Corporation Website. As part of its Step 1 Progressive Design-Build Services, Offerors will review, evaluate, test and optimize the information included in the Owner's Criteria Package. The Design-Builder's Step 1 Report must include updated versions of all of the Attachment A Documents included in this RFQ/RFP, confirmed through collaboration between the Selected Design-Builder and Owner's Review Committee.
- 3.11.3. The Approved Step 1 Report, including the updated Owner's Criteria Package, will become part of the Basis of Design Documents, which is defined in Section 1.2.2 of the DBIA Standard Form of General Conditions of Contract Between the Owner and Design-Builder.
- 3.11.4. All submittals from Offerors in response to this RFP must be consistent with and designed to achieve the goals and objectives set forth in the Owner's Criteria Package.
- 3.11.5. Offerors shall be entitled to reasonably rely on the accuracy of the information set forth in Owner's Criteria Package for the purposes of developing the Offeror's Qualitative and Price Proposals. However, the selected Design-Builder will be required to perform an independent evaluation of all information provided by the Owner as part of the Design-Builder's Step 1 Progressive Design-Build Services.
- 3.11.5.1. Should the Owner's Project Criteria include prescriptive requirements, the Design-Builder shall be responsible for confirming that the prescriptive requirements meet the other performance requirements of the Project as well as all applicable Legal Requirements.
- 3.11.5.2. The Design-Builder is also responsible to reconcile any ambiguities, inconsistencies, conflicts or other issues within the Owner's Project Criteria as part of its Step 1 Report.
- 3.11.5.3. Generally, during the performance of Step 1 Progressive Design-Build Services, the Design-Builder shall reconcile any conditions that could give rise to an adjustment in the Contract Price and Schedule, with any such adjustment included in the Step 1 Contract Sum, either directly or by Allowance.
- 3.11.6. Provided the selected Design-Builder complies with all requirements set forth in the Contract, including but not limited to those regarding notice of claims to the Owner and identification of differing site conditions, and only to the extent that the Contract allows the selected Design-Builder to an adjustment in the Contract Price and Project Schedule, the selected Design-Builder will be entitled to an adjustment in the Contract Price and Project Schedule. Such adjustment shall be limited to the extent Design-Builder's actual documented costs or the critical path of the Project Schedule have been adversely impacted by conditions that could not have been foreseen during provision of Step 1 Services.
- 3.11.7. The Owner assumes no responsibility for conclusions or interpretations made by the Offeror based on the information provided by the Owner. Oral statements made by the Owner representatives are not binding on the Owner unless the Owner confirms the statements and changes by written Addendum to the RFP. In the event of a conflict between codes, industry standards and the Owner's Program, the most stringent requirements shall apply and Offerors shall submit their Proposals based on the most stringent requirements.

3.12. Submitting a Verified Statement of Qualifications and Proposal

- 3.12.1. Refer to RFQ/RFP Attachment B-2 "Verified Statement of Qualifications and Qualitative Proposal Questionnaire" (the "Questionnaire") for information required in the Design-Builder's Verified Statement of Qualifications and Qualitative Proposal

3.12.2. Submit the Verified Statement of Qualifications and Qualitative Proposal in 8.5" x 11" bound volumes, arranged in portrait format. Provide dividers between each major section of the Questionnaire as follows:

TAB 1	Design-Builder Identification Oath and Affirmation
TAB 2	Executive Summary
TAB 3	Organization and Leadership
TAB 4	General Qualifications
TAB 5	Experience and Performance Record
TAB 6	References
TAB 7	Overall Management Approach
TAB 8	Design to Target Budget Management
TAB 9	Step 1 Services Schedule
TAB 10	Collateral Material

3.12.3. Format pages so that TRC members can easily navigate the questions asked in the RFQ/RFP and the responses offered by the Design-Builder.

- 3.12.3.1. Re-state each item in the Questionnaire, exactly as it is written, including the outline reference number.
- 3.12.3.2. Follow the item with the Design-Builder's appropriate response. Check box options in the questionnaire do not need to be repeated. The appropriate choice may be part of the Design-Builder's response
- 3.12.3.3. Provide a graphic layout of the submittal that makes it easy for the reader to distinguish between Questionnaire items and responses.
- 3.12.3.4. Some items in the Questionnaire cite a specific paragraph from the Indiana Public Works Design-Build Law (e.g. "IC 5-30-4-3(b)") These items **must** have a direct response, as they are required for a Design-Builder's VSQ submittal by law. Respond directly to the item, with a summary statement, even though the follow up questions below the citation address sub-parts of the same topic.

3.12.4. Submit the VSQ/Proposal to the attention of the individual identified on Page 1 of this RFQ/RFP at the location indicated, by the date and time indicated or as modified by Addendum.

3.12.5. The entire VSQ / Proposal Package shall be sealed with an envelope or box, with the following information on the outside of the sealed package:

"Verified Statement of Qualifications and Proposal for 2024 North White School Corporation Culinary Arts Program Project"

From: Legal Name of Entity making the submittal

Due: [Date] by [time]

3.12.6. The Owner will stamp the submittals with a date and time stamp to record timeliness.

- 3.12.6.1. Offerors are responsible for ensuring timely delivery of submittals. The Owner is not responsible for late submittals.
- 3.12.6.2. Late submittals may be rejected, subject to the discretion of the Owner regarding why the submittal was received after the stated deadline.

3.12.7. Submit the Original VSQ / Proposal in two parts

- 3.12.7.1. A Verified Statement of Qualifications and Qualitative Proposal Binder
- 3.12.7.2. A Sealed Price Proposal

3.12.8. Submit additional copies of the VSQ / Qualitative Proposal as outlined below.

3.12.9. Provide One (1) Original Verified Statement of Qualifications and Qualitative Proposal, with original signatures and corporate seals where required by the Questionnaire.

- 3.12.9.1. Clearly mark this binder “Original”
- 3.12.9.2. The required financial statements may be included with the Original binder in a separate sealed envelope.
- 3.12.10. Provide three (3) additional bound copies of the Verified Statement of Qualifications and Qualitative Proposal
- 3.12.11. Provide One (1) Original Price Proposal (See Attachment D to this RFQ/RP) in a separate, sealed envelope, attached to the Original Verified Statement of Qualifications and Qualitative Proposal. Clearly mark the outside of the Sealed Price Proposal envelope:

“Price Proposal for 2024 North White School Corporation Culinary Arts Program Project”

By: Legal Name of the Design-Build Entity submitting the Proposal.

Provide a Price Proposal in a format that complies with Attachment C to this RFP.

- 3.12.12. Within four (4) hours of the date and time set for the delivery of the Design-Builder’s Submittal, provide the Owner’s Design Criteria Developer with an e-mailed .pdf version (or link to a download site) of the Verified Statement of Qualifications and Qualitative Proposal.
 - 3.12.12.1. E-mail the .pdf file / download link to: dan@therawlinsgroup.com
- 3.12.13. Design-Builders are responsible to ensure that all self-reporting reference forms are e-mailed to the Owner’s Design Criteria Developer no later than the deadline identified in Section 2.5 of this RFQ/RFP, or as modified by Addendum. See Section 4.2.7 and Attachment B-3 for additional information about the self-reporting reference form process.

3.13. Verified Statement of Qualifications Evaluation Process

- 3.13.1. Prerequisites – Pass / Fail Criteria: Verified Statements of Qualifications and Qualitative Proposals will initially be reviewed by the Design Criteria Developer for compliance with minimum pass / fail criteria. The DCD may seek additional clarifications or additional information from Offerors prior to completing the initial analysis. The following evaluation criteria will be reviewed on a pass / fail basis:
 - 3.13.1.1. Complete response to the Questionnaire, Attachment B-2 to this RFQ/RFP, and a response that is also in accordance with IC 5-30-5-3. This assessment will also provide the professional opinion of the Design Criteria Developer required by IC 5-30-7-2(c) as to whether each Qualitative Proposal received meets the Owner’s Project Requirements.
 - 3.13.1.2. Design-Build Entity submitting the VSQ/Proposal is legally entitled to provide services in Indiana, and is listed as holding a Certificate of Good Standing by the Indiana Secretary of State.
 - 3.13.1.3. Design-Build Entity submitting the VSQ/Proposal has assembled a team with the licenses, Registrations and credentials necessary to design and construct the project.
 - 3.13.1.4. Design-Build Entity submitting the VSQ/Proposal has adequately demonstrated the capacity to provide a Performance and Payment Bond of not less than \$2,000,000 from an acceptable surety.
 - 3.13.1.5. Design-Build Entity submitting the VSQ/Proposal has adequately demonstrated the capacity to provide all of the required insurance coverage identified in Section 4.2.5 of this RFQ/RFP from acceptable insurance carriers.
 - 3.13.1.6. Design-Build Entity submitting the VSQ/Proposal has established and maintained a Safety Program that results in a safety record below industry averages for the three (3) previous years (or has adequately explained a higher than average record) according to the following metrics:

EMR:	Less than 1.0	
TCIR/TRIR:	Less than 3.0	[per US Bureau of Labor Statistics 2018 Data]
DART:	Less than 1.2	[per US Bureau of Labor Statistics 2018 Data]
 - 3.13.1.7. Design-Build Entity submitting the VSQ/Proposal has a written plan for Employee Drug Testing and will cause all team members to maintain a similar plan.

- 3.13.1.8. Design-Build Entity submitting the VSQ/Proposal has demonstrated compliance with the Federal E-Verify Program and will be able to sign the Owner's E-Verify Affidavit if awarded the project.
- 3.13.1.9. Design-Build Entity submitting the VSQ/Proposal has a written corporate non-discrimination plan that complies with all federal, state and local requirements.
- 3.13.1.10. Design-Build Entity submitting the VSQ/Proposal has program in place to perform Background Checks on all of its team members who will be working on the Project Site.
- 3.13.1.11. Design-Build Entity submitting the VSQ/Proposal has no record of unacceptable past failure to perform on a similar project, as evidenced by reference checks.
- 3.13.2. Only Design-Builders that pass these minimum Qualifications criteria will be offered the opportunity to conduct an interview with the TRC concerning their Qualitative Proposal.
- 3.13.3. Design-Build Teams that will be invited to a Qualitative Proposal Interview will be informed of their interview date and time by the Design Criteria Developer before the Close of Business on the date set for such notification in Section 2.5.

3.14. Qualitative Proposal Evaluation and Scoring

3.14.1. Qualitative Proposal Interview

- 3.14.1.1. The Owner shall conduct a closed session, individual Qualitative Proposal Interview with each Qualified Offeror that submits a Proposal. The Interview shall be 60 minutes long and will occur at the North White School Corporation Administration Building on the date and time for which the proposing Design-Builder receives notice per Sections 3.11.3 and 2.5
 - 3.14.1.2. The Owner reserves the right to ask questions of the Offeror, including but not limited to questions regarding the Offeror's Verified Statement of Qualifications and/or Qualitative Proposal. The interview will occur prior to the opening of the Price Proposal. Discussions about the contents of the Price Proposal will not be allowed.
 - 3.14.1.3. The proposed Design-Build Team will have an opportunity during the Interview to take a maximum of Forty-five (45) minutes to provide a presentation to the Owner regarding its Qualitative Proposal.
 - 3.14.1.4. Offerors should include in the presentation an explanation of the team's approach to developing a design solution that will meets or exceeds the Owner's Project Goals and the definition of Design Excellence for this Project. Offerors should not provide a proposed design solution for this project, as the Owner desires to be engaged in the entire design process with the selected Design-Builder, particularly during Step 1 Progressive Design-Build Services. Offerors are encouraged to discuss the key planning issues that will drive the design process in order to demonstrate the Design-Build team's understanding of the Owner's preliminary program and the key decisions that must be made collaboratively with the Owner to optimize the design.
 - 3.14.1.5. Any presentations at the Interview should be in an electronic audio/visual format suitable for viewing by all present. Offerors must provide the Owner's Design Criteria Developer with a copy of the presentation in .pdf format following the interview.
 - 3.14.1.6. The Owner will have the TRC and advisors present in the meeting and may have as many as 10 people present. Offerors may contact the Owner's Project Representative to arrange to preview the meeting room. Each room will be equipped with a projection screen. Offers should provide any other audio/visual equipment needed.
- 3.14.2. Following the Interviews, the TRC will meet in public session to assign a written composite score to each Qualitative Proposal

3.14.3. Qualitative Proposal Evaluation Criteria and Scoring Methodology

3.14.3.1. The TRC will reference both the Offeror's Verified Statement of Qualifications and Qualitative Proposal in scoring the Qualitative Proposal Evaluation Factors. Rankings of Qualifications assigned in the RFQ phase will not be carried forward. They were used in the shortlisting process to identify the Offerors who received the RFP. During the procurement process, TRC members will have had additional opportunities to interact with each shortlisted team and may have undergone a shift in opinion of the relative ranking of each team that will be reflected in the Qualitative Proposal scoring.

3.14.3.2. **Unweighted TRC Scoring Methodology:** Each TRC member will use the following unweighted scoring metric to assign an individual score to each weighted evaluation factor:

- 5 Superior.** *Best Response. TRC member understands Offeror's Qualifications and Proposal response for this evaluation factor to clearly be the best among the Proposers. It is not required that TRC members assign this rating in every evaluation factor category, however it is inappropriate to assign this rating to more than one Offeror in an individual evaluation factor.*
- 4 Excellent.** *TRC member believes Offeror's Qualifications and Proposal response for this evaluation factor to overall be excellent. It is highly probable that Design-Builder will meet or exceed Owner's expectations for performance in this area.*
- 3 Appropriate.** *TRC member believes Offeror's Qualifications and Proposal response for this evaluation factor is entirely appropriate for the Project. It is reasonable to expect Design-Builder will meet Owner's expectations for performance in this area.*
- 2 Fair.** *TRC member believes Offeror's Qualifications and Proposal response for this evaluation factor is adequate for the Project. It should be expected that focused oversight by the Owner's Design Review Committee will be needed to achieve acceptable results in meeting Owner's expectations for performance in this area.*
- 1 Poor.** *TRC member believes Offeror's Qualifications and Proposal response for this evaluation factor is largely inappropriate for the Project. It should be expected that a significant change in the Design-Builder's approach to this evaluation factor will be required to achieve acceptable results in meeting Owner's expectations for performance in this area.*
- 0 Unacceptable.** *TRC member believes Offeror's Proposal response for this evaluation factor is completely unacceptable for the needs of the Project.*

3.14.3.3. **Weighted Evaluation Factors:** The Verified Statements of Qualification and Qualitative Proposals submitted by each shortlisted Design-Builder will be scored using the unweighted scoring methodology identified in RFQ/RFP Section 3.12.3.2 above applied to each of the following weighted evaluation factors:

Factor ID Number	Factor Description	Factor Weighting
A: Design-Build Entity's Team Qualifications		
A-01	Key Management Staff <i>Quality and capabilities of the individuals comprising the Design-Build Entity's key management staff assigned to the Project. This factor evaluates the people with whom the Owner will engage if this Design-Builder is selected.</i>	5
A-02	Composition and Completeness of Project Team <i>This factor evaluates the quality of the companies represented within the Design-Build team. It also evaluates the extent to which the team is completely engaged at the time the Proposal is submitted, and how & when the "gaps" in the team will be filled. It measures to what extent team members to be engaged in the future can positively influence the outcome of the Project.</i>	3

Factor ID Number	Factor Description	Factor Weighting
A-03	Team Integration and Cohesion <i>Team Chemistry, both within the Design-Build Team, and between the Design-Builder and the Owner. This factor evaluates the extent to which the Design-Build team has achieved a level of integration and cohesion necessary for Design-Build project delivery and the extent to which the Design-Builder's team and the Owner's Project Team can also become integrated and cohesive in an atmosphere of mutual trust and respect.</i>	4
A-04	Trade Contractor Engagement <i>This factor evaluates the extent to which key trade contractors have a voice in the design-build process on the Design-Builder's Team. It measures their level of engagement in the proposal process as well as the Design-Builder's plan for meaningful engagement of Trade Contractor if selected as Design-Builder. It also measures the Design-Builder's plan to ensure the project is staffed with an adequate and appropriately trained & skilled workforce</i>	4
B: Design-Build Entity's Past Performance and Ability to Perform		
B-05	Culinary Arts Facilities Design and Construction Experience <i>This factor evaluates the collective experience and expertise of the Design-Build Team in the design and construction of culinary arts facilities. It measures the degree to which the Team has demonstrated an understanding of the planning and construction issues unique to commercial food service regulations and standards.</i>	3
B-06	Existing School Facility Renovation Experience <i>This factor evaluates the collective experience and expertise of the Design-Build Team in the design and renovation of existing school facilities. It measures the degree to which the Team has demonstrated an understanding of the planning and construction issues unique to school renovation</i>	2
B-07	Past Performance and the Ability to Perform <i>The Design-Build Team's history of working together in design-build project delivery and successfully completing projects of similar scope, schedule and budget.</i>	5
B-08	Schedule, Budget and Quality Control on Past Projects <i>This factor evaluates the Design-Builder's past success on delivering projects on time, within budget and with no lingering quality issues.</i>	4
C: Design-Build Entity's Approach to the Project		
C-09	Overall Project Management and Controls <i>This factor evaluates the manner in which the Design-Builder's proposed management plan and project controls are clearly oriented toward achieving the Owner's goals and objectives for the Project. It measures the Design-Builder's understanding of critical success factors and challenges facing the Project; and the management approach to achieving the critical success factors and overcoming the challenges.</i>	3
C-10	Design to Target Budget Management <i>The Design-Build Team's approach to Target Value Design to Budget, including the tools and techniques it will implement to manage a design to budget process is evaluated by this factor. The Design-Builder's approach to exploring alternative design options for the building and its various components is evaluated by this factor. It measures both the creativity of types of options to be considered and management of information needed for the Owner to effectively participate in making trade-off decisions needed to optimize the project quality and performance in a design to budget process.</i>	5

Factor ID Number	Factor Description	Factor Weighting
C-11	Quality Management <i>The Design-Builder's approach to ensuring the Project meets the Owner's goals and objectives for quality through proactive quality assurance and quality control of both the design and construction processes is assessed by this factor.</i>	2
C-12	Schedule Management <i>The Design-Builder's tools and techniques for maintaining the Project on schedule are evaluated by this factor.</i>	2

3.14.4. **Calculation of Written Composite Score:** The written composite score for each Design-Builder's Qualitative Proposal will be calculated as follows:

- 3.14.4.1. Each individual TRC member will assign an unweighted score, as set forth in RFQ/RFP Section 3.12.3.2 to each weighted evaluation factor, as set forth in RFQ/RFP Section 3.12.3.3.
- 3.14.4.2. The combined unweighted scores of all TRC members will be averaged (mean arithmetic) for each weighted evaluation factor.
- 3.14.4.3. The average (mean arithmetic) unweighted score assigned by the combined TRC for each weighted evaluation factor will be multiplied by the weighting established for that factor to arrive at a weighted TRC score for that factor.
- 3.14.4.4. The sum of all weighted TRC scores for all weighted evaluation factors for a particular Qualitative Proposal shall be that Qualitative Proposal's written composite score once it is adopted by the TRC in accordance with IC 5-30-7-3.

3.15. Price Proposal Opening

- 3.15.1. Immediately following the public TRC meeting to determine a written composite score for each Qualitative Proposal, in the same location as the TRC meeting, the Owner will publicly open the Price Proposals and read them aloud.
- 3.15.2. The date, time and location of the public opening of Price Proposals is identified in Section 2.5 of this RFQ/RFP. This RFQ/RFP and its Addenda constitute the notice to Offerors of the opening of Price Proposals required by IC 5-30-7-4.
- 3.15.3. The Owner's DCD will have prepared a spreadsheet to receive the Price Proposals after they are opened and read aloud. The spreadsheet will calculate the Adjusted Price Score required by IC 5-30-7-5 by dividing each Offeror's Price Proposal by the written composite Qualitative Proposal score assigned by the TRC.

3.16. **Best Value - Basis of Award Determination:** The Offeror submitting the Proposal with the lowest Adjusted Price Score, as calculated above, will be deemed the Offeror with the Best Value Proposal.

- 3.16.1. Prior to making a recommendation for accepting the Proposal to the Board of School Trustees, the Owner will meet with the Best Value Offeror to validate the Proposal and reconcile any minor gaps or inconsistencies between the Proposal and the RFP.
- 3.16.2. The Board of School Trustees will meet in a regularly scheduled public session and take action on the Best Value Proposal by either: a) Accepting the Proposal in accordance with IC 5-30-7-6 and authorizing the selected Design-Builder to provide Step 1 Progressive Design-Build Services as a means of negotiating final Contract Terms and Conditions in accordance with IC 5-30-7-8, or b) May elect to reject all Proposals in accordance with IC 5-30-7-7.

3.17. Form of Agreement

- 3.17.1. Upon selection of the Best Value Proposer as Design-Builder for the Project, the Owner will issue a Letter of Intent to Executed a Design-Build Contract, subject final negotiation of contract terms. The Owner will also issue a Notice to Proceed with Step 1 Progressive Design-Build Services as means formalizing the negotiation process. The Form of Letter of Intent and Notice to Proceed is Attachment C-1 to this RFQ/RFP.

- 3.17.2. The Form of Agreement Between Owner and Design-Builder is DBIA Document No. 544 - Standard Form of Agreement Between Owner and Design-Builder for Progressive Design-Build Project Delivery, Amended in Accordance with IC 5-30.
- 3.17.3. The Form of General Conditions of the Contract is DBIA Document No. 535 – Standard Form of General Conditions of Contract Between Owner and Design-Builder, as amended for Progressive Design-Build Project Delivery and in accordance with IC 5-30.
- 3.17.4. All Terms and Conditions of the Form of Agreement are negotiable during Step 1 Progressive Design-Build Services, except those terms identified below as non-negotiable:
- 3.17.4.1. Terms and Conditions directly related to compliance with legal requirements applicable to the Project are non-negotiable.
- 3.18. Selection De-Briefing:** All Offerors may request a de-briefing from the Owner with respect to the Procurement; however, Owner shall conduct no such de-briefings until it has either reached an agreement on the Project or canceled the Procurement.

SECTION 4: VERIFIED STATEMENT OF QUALIFICATIONS DOCUMENTATION REQUIREMENTS

4.1.1. OATH and AFFIRMATION

- 4.1.1.1. Provide a notarized Oath and Affirmation swearing that the facts and information included in the Design-Builder's Verified Statement of Qualifications are true and correct.
- 4.1.1.2. The form of the statement is found in **TAB 1** of the Verified Statement of Qualifications and Qualitative Proposal Questionnaire included as Attachment B-2 to this RFQ/RFP.

4.1.2. TEAM IDENTIFICATION

- 4.1.2.1. Indiana Code Section 5-30-5-3(b)(1) requires the Design-Builder's Verified Statement of Qualifications to include "A listing of all prime contractors and architectural and engineering firms that participate financially as part of the team." **TAB 3** of the Questionnaire included as Attachment B-2 to this RFQ/RFP includes specific questions about the entire project team and when each entity on the team will become engaged in the Design-Build Process.
- 4.1.2.2. The Owner desires that Most Highly Qualified Design-Build Teams will include early engagement of all key team members to drive both integration and cohesion of the team. Research has shown that projects with higher levels of team integration and team cohesion achieve better project outcomes. The Owner also believes a well-trained and qualified labor force committed to the project team and engaged in the total process will enhance project outcomes.
- 4.1.2.3. The Most Highly Qualified Design-Builders will be able to demonstrate the following in the Verified Statement of Qualifications and Qualitative Proposal:

Team Integration

The degree to which team members from separate organizations and disciplines are engaged prior to the start of conceptual design in collaborative, integrated activities, such as:

- Joint goal setting
- Cross-disciplinary design
- BIM Execution planning
- Increased information sharing
- Co-Location for increased team interaction

Team Cohesion

The degree to which individual team members have shared task commitment, group pride & interpersonal alignment, including:

- Commitment to shared goals
- High levels of positive team chemistry
- Exemplary communication

- Rock-solid trust of one another

4.1.2.4. While the Questionnaire allows opportunity for Design-Build Teams to commit to certain trade partners after the submittal of the VSQ/Proposal, the Owner believes that early team integration that drives the optimization of the design and construction process will accomplish more to achieve Best Value for the project than will selecting trade partners on price alone after the design is completed. Design-Builders that propose to select trade partners primarily on the basis of price (low bid mentality) will not be regarded as highly as those teams that seek a high level of team integration and team cohesion.

4.1.3. PROFESSIONAL LICENSING and CERTIFICATION

4.1.3.1. Design-Builder must verify that they employ or are teaming with individuals and entities that are licensed, registered, certified and otherwise qualified in good standing to provide the design and construction services required to complete an Indiana Public Works Project. An outline of the required submittal information is found in **TAB 3** of the Questionnaire included as Attachment B-2 to this RFQ/RFP.

4.1.3.2. The Owner also seeks verification of project team qualifications that extend beyond professional or trade licensure. In addition to any validation or disclosure required by this RFQ/RFP, Most Highly Qualified Design-Build Teams will be able to demonstrate that individuals with particular knowledge and experience in Design-Build project delivery are serving in meaningful roles on the project team.

4.1.3.3. The Owner encourages the use of Design-Build Institute of America (DBIA) Universal Best Design-Build Practices. Design Build Team members in a meaningful role on the Project who carry a "DBIA Professional Designation" will be considered an asset in the selection process.

4.1.4. PAYMENT and PERFORMANCE BONDING

4.1.4.1. In accordance with IC 5-30-8-4, the Design-Builder that is awarded the Design-Build Contract must furnish performance and payment bonds for the portion of the Project related to construction. Bonding is not required for the portion of the Design-Build Contract related to design.

4.1.4.2. For the purpose of evaluating the capacity of the Design-Build Entity to meet this requirement, at the RFQ/RFP phase, the Design-Builder is required to provide a letter from surety documenting the ability to provide Performance and Payment Bonding of at least two million dollars (\$2,000,000).

4.1.4.3. The letter must be less than sixty (60) days old and written by a Surety Company authorized to do business in Indiana and is listed in the U.S. Department of Treasury's Circular 570, latest revision, and whose underwriting limitation is at least one hundred twenty million dollars (\$120,000,000). This also excludes any Surety delisted subsequent to the most recent publication of Circular 570.

4.1.4.4. The letter must specifically identify the Design-Build Entity and affirm that the Design-Build Entity has the capacity to obtain Performance and Payment Bonding for the project, stating the Design-Build Entity's single project bonding ability and its aggregate bonding ability.

4.1.4.5. Performance and Payment Bonding is not required as part of the VSQ / Proposal or Step 1 Progressive Design-Build Services. The Design-Builder that is awarded the Design-Build Contract will be required to provide Bonds upon execution of the Design-Build Contract, prior to commencing Step 2 Progressive Design-Build Services. The Bonds will be made in favor of the Owner, using the DBIA series of Bond Forms for an amount not less than 100% of the value of the Construction Portion of the Design-Build Contract.

4.1.4.6. The Surety on the Performance and Payment Bonds shall not be released earlier than one (1) year after the date of Final Completion of the Project.

4.1.5. LIABILITY INSURANCE

- 4.1.5.1. The Design-Builder must document existing insurance coverage in the following minimum amounts and not less than Indiana statutory requirements. Coverage must be from established insurance carriers with AM Best Rating of at least B++ (Good). The coverage must be free from any exclusion related to the Design-Build delivery method. It will be a condition of the Design-Build Contract that the Design-Builder must keep the coverage in place for at least three (3) years after the Date of Substantial Completion.
- 4.1.5.2. If the Design-Builder is currently carrying coverage less than the specified amounts, a letter from the Design-Builder's insurance carrier affirming the Design-Builder's ability to obtain the required coverage, along with a statement by the Design-Builder of its willingness to obtain the required coverage will also meet the documentation requirements of the RFQ/RFP.
- 4.1.5.3. Provide Certificates of Insurance, as outlined in **TAB 4** of the Questionnaire included as Attachment B-2 to this RFQ/RFP that document the following minimum insurance coverages.

Worker's Compensation and Liability Insurance

Employer's Liability:	\$1,000,000
<i>Bodily Injury by Accident</i>	<i>each accident</i>
Employer's Liability:	\$1,000,000
<i>Bodily Injury by Disease</i>	<i>policy limit</i>
Employer's Liability:	\$1,000,000
<i>Bodily Injury by Disease</i>	<i>each employee</i>

Commercial General Liability Insurance (Occurrence Based)

General Aggregate Limit (per job):	\$2,000,000
<i>Other than products/completed operations</i>	
Products / Completed Operations:	\$1,000,000
Personal & Advertising Injury Limit:	\$1,000,000
Each Occurrence Limit:	\$1,000,000
<i>completed operations</i>	
Damage to Rented Premises	\$100,000
Medical Expenses (<i>any one person</i>):	\$5,000

Professional Services Liability Insurance (Errors + Omissions)

Per Claim:	\$1,000,000
<i>Minimum 3-year extended reporting or continuation of coverage for 3 years following Date of Final Completion.</i>	

Comprehensive Auto Liability Insurance

Single Limit – each accident:	\$1,000,000
<i>Owner, Hired & Non-Owned</i>	
<i>Bodily Injury & Property Damage</i>	

Umbrella Excess Liability Insurance

Each Occurrence & Aggregate:	\$5,000,000
<i>Must provide umbrella coverage for all forms of insurance listed above.</i>	

- 4.1.5.4. It is not necessary that the Certificates of Insurance be endorsed for the Owner as additional insured at this time. Endorsements will be required on the Certificates of Insurance provided by the Selected Design-Builder after the Progressive Design-Build Contract is executed.

4.1.6. SAFETY PROGRAM and SAFETY RECORD

- 4.1.6.1. All phases of construction are to be governed, at all times, by applicable provisions of Indiana and Federal Law(s), including, but not limited to, the latest Amendments of the following statutes:
- Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 91-596.
 - Part 1910 – Occupational Safety and Health Standards, Chapter VIII of Title 29, Code of Federal Regulations.
 - Part 1926 – Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.
- 4.1.6.2. Design-Builder must document, as a minimum requirement, an on-going active formal safety plan and an established safety record comparable to the U.S. Department of Labor's Bureau of Labor Statistics national averages for Design-Builder's SIC and NAICS codes.
- 4.1.6.3. For the purpose of evaluation of the Design-Build Entity's safety record, submit the data requested in **TAB 4** of the Questionnaire included as Attachment B-2 to this RFQ/RFP

4.1.7. EXPERIENCE and REFERENCES

- 4.1.7.1. **TAB 5** of the Questionnaire included as Attachment B-2 to this RFQ/RFP requires Design-Builders to provide information about up to five (5) similar projects as evidence of experience to perform the work of this project. A portion of the information requested for each project is a reference from the Project's Owner's Representative.
- 4.1.7.2. **TAB 6** of the Questionnaire included as Attachment B-2 to this RFQ/RFP requires Design-Builders to provide at least three (3) additional references.
- 4.1.7.3. Attachment B-3 to this RFQ/RFP is the reference form to be used to complete the tasks noted above.
- 4.1.7.4. Design-Builders must identify the individuals, including titles and company affiliations in the written response to the items in the Questionnaire.
- 4.1.7.5. Design-Builders are responsible to distribute the forms to the individuals providing references and ensure that the forms are delivered via e-mail to the DCD by the date and time indicated on the reference form.

SECTION 5: QUALITATIVE PROPOSAL DOCUMENTATION REQUIREMENTS

5.1. Overall Management Approach: **TAB 7** of the Questionnaire included as Attachment B-2 to this RFQ/RFP includes items related to the Design-Builder's Proposed overall management approach to the project, including:

- 5.1.1. Team's Understanding of Project Goals and Objectives
- 5.1.2. Project Challenges, Constraints and Opportunities
- 5.1.3. Safety Management
- 5.1.4. Quality Assurance and Quality Control
- 5.1.5. Communications
- 5.1.6. Team Collaboration and Integration
- 5.1.7. Trade Contractor Engagement

5.2. Design to Target Budget Approach: **TAB 8** of the Questionnaire included as Attachment B-2 to this RFQ/RFP includes items related to the Design-Builder's Proposed management of a design-to-target-budget approach to the project

5.3. Schedule: **TAB 9** of the Questionnaire included as Attachment B-2 to this RFQ/RFP includes items related to the

Design-Builder's Proposed management of the project schedule.

- 5.3.1. The first part of this section requests elaboration on the techniques the Design-Builder will use to build and manage the project schedule, as well as how the Owner will be engaged in that process.
- 5.3.2. The second part of this section requires a detailed schedule for the Design-Builder's execution of Step 1 Progressive Design-Build Services. The Owner is most interested in understanding the process the Design-Builder will undertake to complete Step 1 Services and the extent of engagement the Design-Builder expects of the Owner during Step 1.
- 5.3.3. It is not a requirement of this RFQ/RFP that the Design-Builder provide a schedule for the entire project. Only a schedule for Step 1 is required. The schedule for Step 2 Services is a work product of Step 1 Services and is to be prepared collaboratively with the Owner.

5.4. Collateral Materials: TAB 10 of the VSQ / Qualitative Proposal is a place for the Design-Builder to include information for TRC consideration that is not otherwise required by the RFQ / RFP.

- 5.4.1. Design-Builders are not required to include any collateral materials, and are asked to keep such materials, if provided, relevant to the Qualitative Proposal scoring criteria.

SECTION 6: PRICE PROPOSAL DOCUMENTATION REQUIREMENTS

6.1. Price Proposal

- 6.1.1. Offerors will submit Price Proposals pursuant to the RFQ/RFP. Price Proposals shall be based on the RFQ/RFP and Contract Documents as amended by Addenda. Offerors shall keep their Price Proposals open for sixty (60) days after submission of their Price Proposal. Offerors shall be entitled to rely on the written information provided by the Owner in the RFQ/RFP and any Addenda in developing their Price Proposal; however, the selected Design-Builder will be required to validate all Project information during Step 1 Progressive Design-Build Services. By submitting a Price Proposal, the Offeror represents and warrants that it will complete Step 1 Progressive Design-Build Services and submit a report that includes a design and scope of work that can be achieved within the Price Proposal Submitted.
- 6.1.2. As part of the Price Proposal, Offers will submit a Step 1 Services Fee quote to provide Step 1 Progressive Design-Build Services. Owner reserves the right to negotiate the scope of services and price of Step 1 Progressive Design-Build Services with the selected Design-Builder prior to authorizing the selected Design-Builder to proceed with Step 1 Progressive Design-Build Services.
 - 6.1.2.1. The selected Design-Builder will be paid the authorized Step 1 Services Fee after the Board of School Trustees has taken action on the Design-Builder's Step 1 Report. By submitting a Step 1 Report, the Design-Builder will earn the authorized fee regardless of the action of the Board of Commissioners.
 - 6.1.2.2. The Step 1 Services Fee will be part of the Design-Builder's Contract Sum for all Design-Build Services and shall be included in the Price Proposal submitted to the Owner.
- 6.1.3. The Offeror has carefully examined the RFQ/RFP and the Owner's Program and ascertained the nature, scope, and location of the Work prior to submitting its Price Proposal.
 - 6.1.3.1. In completing the VSQ / Proposal and Step 1 Progressive Design-Build Services, the Design-Builder has investigated and assured itself as to the general and local conditions that can affect the Work or its cost, all geotechnical and existing site conditions data, and any and all Plans, Specifications, Addenda, and Contract forms, whether provided by the Owner or developed by the selected Design-Builder during execution of Step 1 Progressive Design-Build Services.
 - 6.1.3.2. The submittal of the Qualitative and Price Proposals shall be conclusive evidence that the Offeror has made such examinations and understands all the requirements for the performance of the completed Work.

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- 6.1.3.3. The submittal of a Step 1 Report further provides conclusive evidence that the selected Design-Builder has made such examinations and understands all the requirements for the performance of the completed work.
- 6.1.3.4. Failure of the Design-Builder to take these actions will not relieve it of responsibility for properly estimating the difficulty and cost of successfully completing the Work, or for proceeding to successfully complete the Work without additional cost to the Owner. The Design-Builder shall determine the methods, materials, labor, and equipment required to perform the completed Work and shall reflect their cost in the Price Proposal.

SECTION 7: ATTACHMENTS TO THIS RFQ/RFP

ATTACHMENT A: OWNER'S PROJECT CRITERIA

- A-1 Owner's Goals and Objectives for the Project
- A-2 Site Constraints
- A-3 Design Performance Systems Narrative

ATTACHMENT B: REQUEST FOR QUALIFICATIONS and QUALITATIVE PROPOSAL INFORMATION and FORMS

- B-1 Legal Notice of Combined RFQ/RFP
- B-2 Verified Statement of Qualifications and Qualitative Proposal Questionnaire
- B-3 Professional Reference Form

ATTACHMENT C: PROPOSED CONTRACT DOCUMENTS

- C-1 Letter of Intent and Notice to Proceed for Step 1 Progressive Design-Build Services
- C-2 DBIA Document No. 544 - Standard Form of Agreement Between Owner and Design-Builder for Progressive Design-Build Project Delivery, Amended in Accordance with IC 5-30
- C-3 DBIA Document No. 535 – Standard Form of General Conditions of Contract Between Owner and Design-Builder, as amended for Progressive Design-Build Project Deliver in accordance with IC 5-30

ATTACHMENT D: PRICE PROPOSAL FORM



Combined Request for Qualifications and Request for Proposals

For progressive design-build project delivery under Indiana Code Section 5-30
for projects valued at less than \$5,000,000, as amended

This **COMBINED REQUEST FOR QUALIFICATIONS AND REQUEST FOR PROPOSAL** ("RFQ/RFP") from the Owner named below invites the submittal of Combined Verified Statement of Qualifications ("VSQ") and Progressive Design-Build Proposal ("Proposal") from firms interested in providing design-build services for the Project described below. By submitting a VSQ and Proposal, the Offeror represents that it has carefully read the terms and conditions of this RFQ/RFP and all attachments and Addenda and agrees to be bound by them. This RFQ/RFP is not an offer to enter into a contract, but merely a solicitation of persons interested in submitting a VSQ and Proposal to the Owner for the Project.

OWNER:

(Name and address)

North White School Corporation
402 East Broadway Street
Monon, IN 47959

PROJECT:

(Include Project name and location)

2024 Culinary Arts Project
North White Middle-High School
305 East Broadway Street
Monon, IN 47959

OWNER CONTACT PERSON:

All communications through the Owner's Design Criteria Developer:

Daniel D. Rawlins, RA, DBIA
The **Rawlins Group**, LLC
(317) 441-7905
dan@therawlinsgroup.com
6706 Marmont Circle
Indianapolis, IN 46220

DELIVER PROPOSAL TO:

North White School Corporation
Administrative Office
402 East Broadway Street
Monon, IN 47959
Attention: Nick Eccles, Superintendent

PROPOSAL DUE DATE AND TIME:

Proposals shall be submitted no later than:

Friday, **May 24, 2024**
2:00 PM | Eastern Daylight Saving Time

All Verified Statements of Qualification and Proposals must be submitted pursuant to the instructions below. It is the Offeror's sole responsibility to ensure that the Proposal is delivered in the manner required in this RFQ/RFP by the Due Date and Time. Owner has the right to reject any VSQ's / Proposals not properly delivered.

- 4.1.4.3. The letter must be less than sixty (60) days old and written by a Surety Company authorized to do business in Indiana and is listed in the U.S. Department of Treasury's Circular 570, latest revision, and whose underwriting limitation is at least one hundred twenty million dollars (\$120,000,000). This also excludes any Surety delisted subsequent to the most recent publication of Circular 570.
- 4.1.4.4. The letter must specifically identify the Design-Build Entity and affirm that the Design-Build Entity has the capacity to obtain Performance and Payment Bonding for the project, stating the Design-Build Entity's single project bonding ability and its aggregate bonding ability.
- 4.1.4.5. Performance and Payment Bonding is not required as part of the VSQ / Proposal or Step 1 Progressive Design-Build Services. The Design-Builder that is awarded the Design-Build Contract will be required to provide Bonds upon execution of the Design-Build Contract, prior to commencing Step 2 Progressive Design-Build Services. The Bonds will be made in favor of the Owner, using the DBIA series of Bond Forms for an amount not less than 100% of the value of the Construction Portion of the Design-Build Contract.
- 4.1.4.6. The Surety on the Performance and Payment Bonds shall not be released earlier than one (1) year after the date of Final Completion of the Project.

4.1.5. **LIABILITY INSURANCE**

- 4.1.5.1. The Design-Builder must document existing insurance coverage in the following minimum amounts and not less than Indiana statutory requirements. Coverage must be from established insurance carriers with AM Best Rating of at least B++ (Good). The coverage must be free from any exclusion related to the Design-Build delivery method. It will be a condition of the Design-Build Contract that the Design-Builder must keep the coverage in place for at least three (3) years after the Date of Substantial Completion.
- 4.1.5.2. If the Design-Builder is currently carrying coverage less than the specified amounts, a letter from the Design-Builder's insurance carrier affirming the Design-Builder's ability to obtain the required coverage, along with a statement by the Design-Builder of its willingness to obtain the required coverage will also meet the documentation requirements of the RFQ/RFP.
- 4.1.5.3. Provide Certificates of Insurance, as outlined in **TAB 4** of the Questionnaire included as Attachment B-2 to this RFQ/RFP that document the following minimum insurance coverages.

Worker's Compensation and Liability Insurance

Employer's Liability: <i>Bodily Injury by Accident</i>	\$1,000,000 <i>each accident</i>
Employer's Liability: <i>Bodily Injury by Disease</i>	\$1,000,000 <i>policy limit</i>
Employer's Liability: <i>Bodily Injury by Disease</i>	\$1,000,000 <i>each employee</i>

Commercial General Liability Insurance (Occurrence Based)

General Aggregate Limit (per job): <i>Other than products/completed operations</i>	\$2,000,000
Products / Completed Operations:	\$1,000,000
Personal & Advertising Injury Limit:	\$1,000,000
Each Occurrence Limit: <i>completed operations</i>	\$1,000,000
Damage to Rented Premises	\$100,000
Medical Expenses (<i>any one person</i>):	\$5,000

Professional Services Liability Insurance (Errors + Omissions)

Per Claim: \$1,000,000

*Minimum 3-year extended reporting or continuation of coverage
for 3 years following Date of Final Completion.*

Comprehensive Auto Liability Insurance

Single Limit – each accident: \$1,000,000

*Owner, Hired & Non-Owned
Bodily Injury & Property Damage*

Umbrella Excess Liability Insurance

Each Occurrence & Aggregate: \$5,000,000

Must provide umbrella coverage for all forms of insurance listed above.

- 4.1.5.4. It is not necessary that the Certificates of Insurance be endorsed for the Owner as additional insured at this time. Endorsements will be required on the Certificates of Insurance provided by the Selected Design-Builder after the Progressive Design-Build Contract is executed.

4.1.6. **SAFETY PROGRAM and SAFETY RECORD**

- 4.1.6.1. All phases of construction are to be governed, at all times, by applicable provisions of Indiana and Federal Law(s), including, but not limited to, the latest Amendments of the following statutes:
- Williams-Steiger Occupational Safety and Health Act of 1970, Public Law 91-596.
 - Part 1910 – Occupational Safety and Health Standards, Chapter VIII of Title 29, Code of Federal Regulations.
 - Part 1926 – Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.
- 4.1.6.2. Design-Builder must document, as a minimum requirement, an on-going active formal safety plan and an established safety record comparable to the U.S. Department of Labor's Bureau of Labor Statistics national averages for Design-Builder's SIC and NAICS codes.
- 4.1.6.3. For the purpose of evaluation of the Design-Build Entity's safety record, submit the data requested in **TAB 4** of the Questionnaire included as Attachment B-2 to this RFQ/RFP

4.1.7. **EXPERIENCE and REFERENCES**

- 4.1.7.1. **TAB 5** of the Questionnaire included as Attachment B-2 to this RFQ/RFP requires Design-Builders to provide information about up to five (5) similar projects as evidence of experience to perform the work of this project. A portion of the information requested for each project is a reference from the Project's Owner's Representative.
- 4.1.7.2. **TAB 6** of the Questionnaire included as Attachment B-2 to this RFQ/RFP requires Design-Builders to provide at least three (3) additional references.
- 4.1.7.3. Attachment B-3 to this RFQ/RFP is the reference form to be used to complete the tasks noted above.
- 4.1.7.4. Design-Builders must identify the individuals, including titles and company affiliations in the written response to the items in the Questionnaire.
- 4.1.7.5. Design-Builders are responsible to distribute the forms to the individuals providing references and ensure that the forms are delivered via e-mail to the DCD by the date and time indicated on the reference form.

North White School Corporation
2024 Culinary Arts Program Project
RFP Attachment A-1

Owner's Project Goals and Objectives

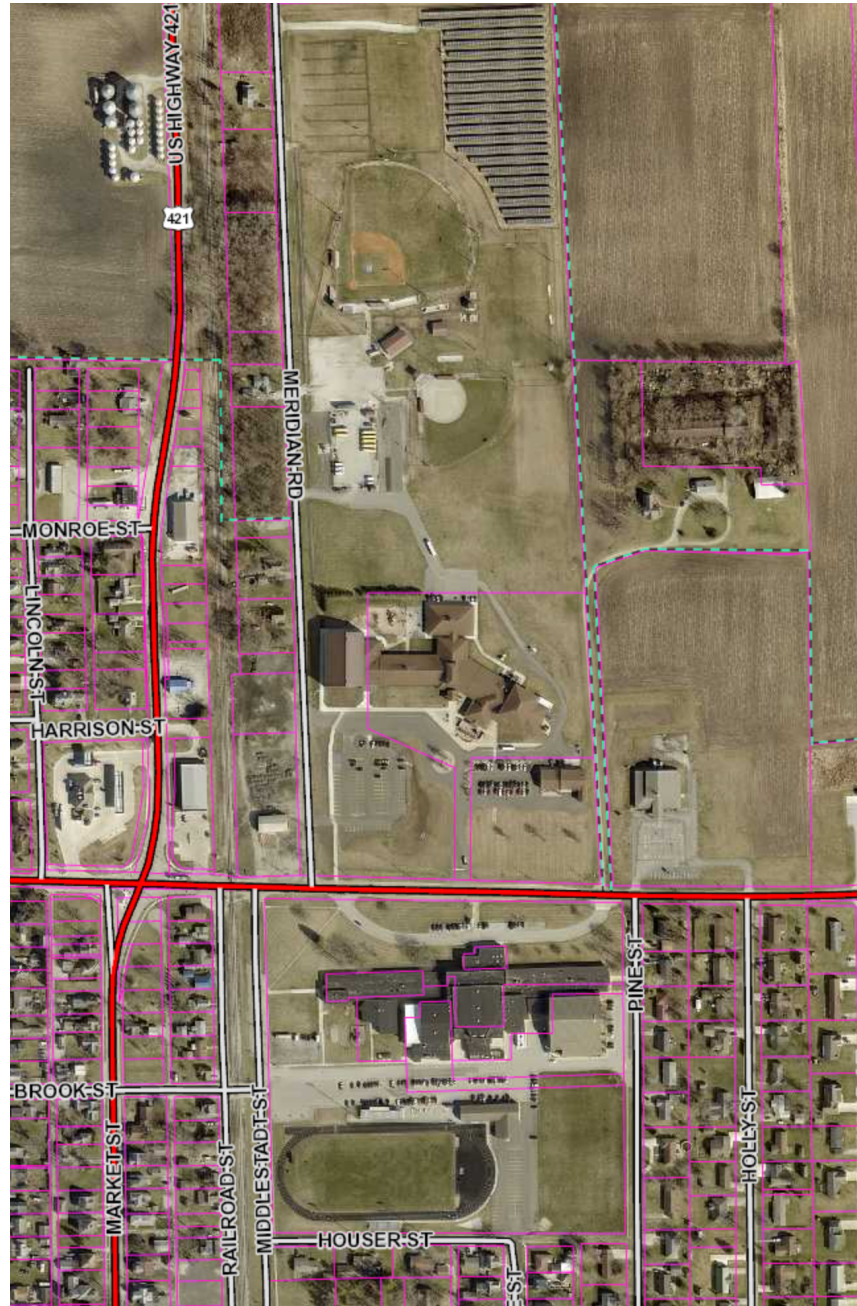
This summary of Owner's Project Goals and Objectives was generated from a variety of sources and stakeholders of the Project. They are presented in no particular order or hierarchy of priority. During the execution of Step 1 Progressive Design-Build Services, the selected Design-Builder will guide the entire project team to a common understanding of these goals and objectives, including a shared understanding of their nuances and implications to design, scope, quality, budget and schedule.

The Owner's Project Goals and Objectives should be tested, updated and appropriately revised. The Design-Builder's Step 1 Progressive Design-Build Report must include an updated statement of Owner's Project Goals and Objectives.

1. Optimize the quality and scope of work that can be provided within the funding available for the project.
 - a. Design-Builder must provide excellent leadership in assisting the Owner to establish priorities and make appropriate trade-off decisions about the Project.
 - b. Design-Builder must guide the Project development process through thoughtful consideration of options relating to building image and character, energy efficiency and sustainability, safety and security, flow of public and private areas and other critical factors in order to help the Owner make the most informed decisions about the appropriate design and construction of the facility.
2. Establish a collaborative relationship between the Owner and the Design-Build Team to deliver quality design and construction on time and within the Owner's Target Design-Build Budget of \$X,XXX,XXX.
3. Design and Construct renovations to [area of the building] to serve the school corporations proposed new Culinary Arts Program as soon as possible. The Owner hopes to begin offering the program during the 2024-2025 Academic Year.
4. Comply with all applicable Federal, State and Local Building Codes, Ordinances, Legal Constraints, Standards, etc.
5. Maintain a safe, injury free work site.
6. Minimize impacts to ongoing community operations through close coordination with the Owner.
7. Provide opportunity for local companies and individuals to participate in the project. Provide means for this project to have a positive impact on the local economy.

North White School Corporation
2024 Culinary Arts Program Project
RFP Attachment A-2
Site Constraints

The existing project site includes constraints and opportunities the Design-Builder must fully understand and embrace. The diagram below is taken from the White County GIS System. Design-Builder is to verify site conditions as part of Step 1 – Progressive Design-Build Services.



1. Design-Builder shall prepare a site logistics plan for construction as part of its Step 1 Report.

North White School Corporation
2024 Culinary Arts Program Project
 RFP Attachment A-3

Design Performance Systems Narrative

This narrative is organized in CSI's UniFormat® Level 3 Detail. It provides a general description of Owner's preliminary expectations, system by system.

The Owner's Design Performance Systems Narrative should be tested, updated and appropriately expanded and revised. The Design-Builder's Step 1 Progressive Design-Build Report must include an updated Design Performance Systems Narrative.

NUMBER	TITLE	DESCRIPTION
10	PROJECT DESCRIPTION	
1010	Project Summary	Design, Construction, Equipping and Commissioning of improvements to the existing North White Middle-High School, including: <ul style="list-style-type: none"> Renovation of the existing XXX area to accommodate a new high school culinary arts curriculum
1020.10	Site Program	Describe any anticipated site work
1020.50	Facility Program	Describe proposed culinary arts program.
1030.10	Zoning Requirements	Zoning is appropriate for the proposed project. No re-zoning is required.
1030.20	Code Analysis	<p>The facility should meet all current applicable codes and standards. The Design-Builder's Step 1 report must include a summary of applicable codes, measures undertaken in the design to comply with those codes and a detailed explanation of any variances proposed to be sought in the design and construction of the project.</p> <p>Comply with the following standards relating to commercial food service operations:</p> <p>Federal Laws and Standards</p> <ul style="list-style-type: none"> U.S. Food and Drug Administration – FDA Food Code [2022] EISA Section 312 – Energy Independence and Security Act of 2007, Section 312: Walk-in Coolers and Walk-in Freezers Code of Federal Regulations (CFR) Title 21. Food and Drugs Subchapter B – Food for Human Consumption <p>Indiana Laws and Standards</p> <ul style="list-style-type: none"> Indiana Code (IC) Title 16 Article 42. Regulation of Food, Drugs and Cosmetics <ul style="list-style-type: none"> IC 16-42-1 Regulation of Food, Drugs and Cosmetics IC 16-42-5 Food Sanitary Requirements for Food Establishments IC 16-42-5.2 Food Handlers <p>Non-Governmental Standards</p> <ul style="list-style-type: none"> AHRI – Air Conditioning, Heating, and Refrigeration Institute <ul style="list-style-type: none"> AHRI 1200 – Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets ANSI – American National Standards Institute <ul style="list-style-type: none"> ANSI C2 – National Electric Safety Code

NUMBER	TITLE	DESCRIPTION
		<ul style="list-style-type: none"> ASHRAE – American Society of Heating, Refrigerating and Air Conditioning Engineers <ul style="list-style-type: none"> ASHRAE Handbook – Entire Series ASHRAE 15-2022 – Safety Standard for Refrigeration Systems and Designation and Safety Classification of Refrigerants ASME – American Society of Mechanical Engineers <ul style="list-style-type: none"> ASME-A112.14.3-2018 – Hydromechanical Grease Interceptors ASME-A112.14.4-2001(R2017) – Grease Removal Devices ASME-A112.146 – 2010(R2019) – FOG (Fats, Oils and Greases) Disposal Systems NSF – National Sanitation Foundation, International <ul style="list-style-type: none"> NSF HAACP 2002 – Application of ISO 9000 and HAACP Requirements to Global Food and Beverage Industries NSF / ANSI FE-2023 – Food Equipment (Complete Set)
1030.40	Design Loads	Design of the facility must be in compliance with code mandated design loading criteria. The Design-Builder's Step 1 Report must include a summary of design loading assumptions used in the planning of the facility.
1030.50	Sustainable Design Requirements	The Owner wishes to include reasonably attainable sustainable design, energy efficiency and wellness measures in the new building.
1030.56	Indoor Air Quality Requirements	Comply with recommendations of the ASHRAE <i>Indoor Air Quality Guide: Best Practices for Design, Construction and Commissioning</i> . Comply with ANSI/ASHRAE Standard 62.1-2019, <i>Ventilation for Acceptable Indoor Air Quality</i> . Comply with ASHRAE Standard 55-2017, <i>Thermal Environmental Conditions for Human Occupancy</i>
1030.70	Historic Restoration Requirements	The project has no Historic Restoration Requirements
1040	Existing Conditions	<p>Proposing Design-Builders must review all available site related documents and become thoroughly familiar with existing site conditions during the delivery of Step 1 Progressive Design-Build Services. Design-BUILDER is also responsible, as part of its Step 1 Services, to obtain any and all additional site information needed to complete design and plan for construction of the project</p> <p>No additional cost for differing site conditions will be granted unless site conditions are demonstrated to deviate substantially from all information available at the time of Owner's acceptance of the Design-BUILDER's Step 1 Report.</p>
1040.30	Site Topographic and Boundary Survey	Design Builder is responsible for any survey work needed, including location of private subsurface utilities.
1040.50	Subsurface Investigation	Design-BUILDER is responsible for any geotechnical investigation needed.
1050	Owner's Work	Clearly identify any Work by Owner in the Step 1 Report.
1090	Funding	The Owner has obtained project funding for \$X,XXX,XXX.
20	OWNER DEVELOPMENT	
2010	Site Acquisition	No additional site acquisition is anticipated

NUMBER	TITLE	DESCRIPTION
2020	Permits	As part of Step 1 Progressive Design-Build Services, the selected Design-Builder will prepare a permits list and schedule. It is the Design-Builder's responsibility to identify and plan for all required submittals, reviews, permits and approvals. The Owner will sign applications prepared by the Design-Builder, attend hearings and pay filing fees as may be required by law. Wherever possible, filing fees will be paid by the Design-Builder. All of this is to be planned as a part of the Step 1 Design-Builder's report.
2030	Professional Services	Design-Builder's professional progressive design-build services will be provided in two phases. See the RFQ/RFP for further description of services in each phase. All project QA/QC testing will be provided by the Design-Builder. The Design-Builder shall provide a QA/QC project-specific plan as part of its Step 1 Report.
2050	Other Activities	The Owner has separately retained The Rawlins Group LLC as Design Criteria Developer (DCD). Dan Rawlins will serve as DCD of Record and is a voting member of the TRC.
2080	Budget Project Contingencies	As part of Step 1 Progressive Design-Build Services, the Owner and Design-Builder will jointly establish project budget contingencies as part of the Cost Model developed for the project. The monitoring and control methodologies for using the contingencies identified will also be established during Step 1. The Owner's current target Design-Build Budget is \$X,XXX,XXX.00.
30	PROCUREMENT REQUIREMENTS	
3010	Project Delivery	The project will be delivered using a Progressive Design-Build Contract procured in accordance with Indiana Code Section 5-30.
3020	Solicitation	A combined RFQ/RFP is issued on April 24, 2024. This narrative is a part of that document.
3030	Instructions for Procurement	Instructions for phase procurement are found in the Owner's RFQ/RFP cited above.
3040	Available Project Information	All available project information can be obtained on the School Corporation Websites or by visiting the school corporation administrative offices during normal business hours.
3050	Procurement Forms and Supplements	Instructions for the format of the Verified Statement of Qualifications and Qualitative Proposal are found in the RFQ/RFP. The Price Proposal Form is Attachment D to the RFQ/RFP. There are no other procurement forms.
40	CONTRACTING REQUIREMENTS	
4010	Contracting Forms and Supplements	The Design-Build Contract will be based on DBIA Document 544, <i>Progressive Design-Build Agreement (Amended for IC5-30)</i> . A draft of the agreement is Attachment B-2 to the RFQ/RFP. The final form of the Agreement will be as negotiated between Owner and Design-Builder during the execution of Step 1 Progressive Design-Build Services.
4020	Project Forms	Following execution of the Design-Build Contract, the project will use the DBIA family of forms.
4030	Conditions of the Contract	General Conditions of the Contract will be based on DBIA Document 535, <i>Standard Form of General Conditions of Contract Between Owner and Design-Builder</i> . A draft of General Conditions is Attachment B-3 to the RFQ/RFP. The final form of General Conditions will be as negotiated between Owner and Design-Builder during the execution of Step 1 Progressive Design-Build Services.

NUMBER	TITLE	DESCRIPTION
4040	Revisions, Clarifications and Modifications	<p>Any changes to the RFP after the published date will be by Addendum to the RFP.</p> <p>After selection of the Design-Builder, any negotiated revisions, clarifications and modifications shall be documented in the Step 1 Report and reflected in the final form of Agreement and General Conditions.</p> <p>After Owner's issuance of a Notice to Proceed with Step 2 Progressive Design-Build Services, revisions, clarifications and modifications that do not affect Project Time, Cost or Performance Requirements shall be documented with meeting minutes or confirming RFI's. Revisions, clarifications and modifications that affect Project Time, Cost or Performance Requirements shall be documented by Change Order.</p>
A	SUBSTRUCTURE [not anticipated as part of this project]	
B	SHELL [not anticipated as part of this project]	
C	INTERIORS	
C1010	Interior Partitions	<p>Wall construction for various space types to be confirmed as part of Design-Builder's Step 1 Report. Wall materials should be low maintenance and of appropriate image for the space. Wall design must consider light reflectance and acoustics.</p> <ul style="list-style-type: none"> • All office, classroom and storage room partitions shall be capable of supporting Owner-provided wall mounted shelving consisting of vertical standards anchored to the partition, and fully loaded adjustable shelves from 6" above floor to 7'-6" above floor, weighing at least 160 lbs. per lineal foot. • Minimum STC: 50. • If gypsum wall board is used, provide mold resistant products scoring a "9" or greater when tested according to ASTM D3273. Entirely interior areas that have no reasonably expected exposure to moisture may use products scoring a "7" or better. • Finish gypsum wall board partitions per ASTM C840 and GA 216-04 as follows: <ul style="list-style-type: none"> ○ Level 1: Taped joints. Used in concealed areas that will not be viewed. ○ Level 2: Taped joints and joint compound for walls that will receive a tile finish. ○ Level 4: Embed tape and apply separate first, fill and finish coats of joint compound to tape, fasteners and trim flanges at panel surfaces that will be exposed to view. (most commonly used level of finish) ○ Level 5: Embed tape and apply separate first, fill and finish coats of joint compound to tape, fasteners and trim flanges. Apply skim coat of joint compound over entire panel surface. Use Level 5 finish at public locations that are subject to severe light conditions or will receive a semi-gloss or gloss finish.
C1020	Interior Windows	Safety glazing complying with 16 CFR 1201, Category II for any interior fenestration in general office or public areas.
C1030	Interior Doors	<p>Provide Hollow Metal or solid core wood doors in all academic areas.</p> <ul style="list-style-type: none"> • Hollow metal doors and frames shall comply with SDI A250.8, Level 3 and Physical Performance Level A per SDI A250.4

NUMBER	TITLE	DESCRIPTION
		<ul style="list-style-type: none"> Flush wood doors shall comply with WDMA I.S.1-A, "Pre-finished Architectural Wood Flush Doors." – Extra Heavy Duty Performance Grade. Provide a warranty for the life of the installation. <p>Provide access doors (minimum 24" x 24") for all equipment concealed in chases.</p>
C1040	Interior Grilles and Gates	Owner and Design-Builder to define any need for this system as part of Step 1 Progressive Design Build Services. Clarify determination in Step 1 Report.
C1060	Raised Floor Construction	Not anticipated in this project. Confirm in Step 1 Report
C1070	Suspended Ceiling Construction	Owner and Design-Builder to define any need for architectural suspended ceiling construction as part of Step 1 Progressive Design Build Services. Clarify determination in Step 1 Report.
C1090	Interior Specialties	Owner and Design-Builder to define Interior Specialties that will be provided as part of the project during Step 1 Progressive Design Build Services. Clarify determination in Step 1 Report.
C2010	Wall Finishes	To be determined in Step 1. Comply with NSF HAACP 2002, NSF/ANSI FE-2023, and IC 16-42-5.
C2020	Interior Fabrications	To be determined in Step 1. Comply with NSF HAACP 2002, NSF/ANSI FE-2023, and IC 16-42-5.
C2030	Flooring	To be determined in Step 1. Comply with NSF HAACP 2002, NSF/ANSI FE-2023, and IC 16-42-5.
C2040	Stair Finishes	To be determined in Step 1.
C2050	Ceiling Finishes	To be determined in Step 1. Comply with NSF HAACP 2002, NSF/ANSI FE-2023, and IC 16-42-5.
C2090	Interior Finish Schedules	Design-Builder to provide a preliminary room finish schedule, identifying materials and preliminary color scheme as part of the Step 1 Report.
D	SERVICES	
D10	Conveying	
D1010	Vertical Conveying Systems	Not anticipated as part of this project. Confirm in Step 1 Report
D1030	Horizontal Conveying	No horizontal conveying systems are anticipated for this facility.
D1050	Material Handling	No material handling systems are anticipated for this facility.
D1080	Operable Access Systems	Not anticipated as part of this project. Confirm in Step 1 Report.
D20	Plumbing	
D2010	Domestic Water Distribution	Provide Domestic Water Distribution Systems, equipment, piping, fixtures and accessories per code and functional needs of the facility. Provide a detailed description of proposed systems and materials agreed upon between Owner and Design-Builder as part of the Design-Builder's Step 1 Report

NUMBER	TITLE	DESCRIPTION
D2020	Sanitary Drainage	Provide Sanitary Drainage Systems per code and functional needs of the facility. Provide a detailed description of proposed systems and materials agreed upon between Owner and Design-Builder as part of the Design-Builder's Step 1 Report
D2030	Building Support Plumbing Systems	Provide Building Support Plumbing Systems for storm water management, grey water systems (if any) per code and functional needs of the facility. Provide a detailed description of proposed systems and materials agreed upon between Owner and Design-Builder as part of the Design-Builder's Step 1 Report
D2050	General Service Compressed Air	Compressed air systems are not anticipated for this facility. To be confirmed during Step 1 Services and documented in Design-Builder's Step 1 Report.
D2060	Process Support Plumbing Systems	Process support plumbing systems are not anticipated for this facility. To be confirmed during Step 1 Services and documented in Design-Builder's Step 1 Report.
D30	Heating, Ventilation and Air Conditioning (HVAC)	
D3010	Facility Fuel Systems	This facility is anticipated to use local utilities for fuel sources. To be confirmed during Step 1 Services and documented in Design-Builder's Step 1 Report.
D3020	Heating Systems	Adjust existing system for renovated spaces. Document proposed system and any energy efficiency / sustainability / wellness goals in the Design-Builder's Step 1 Report.
D3030	Cooling Systems	
D3050	Facility HVAC Distribution Systems	
D3060	Ventilation	
D3070	Special Purpose HVAC Systems	
D40	Fire Protection	
D4010	Fire Suppression	Adjust existing fire suppression systems as required.
D4030	Fire Suppression Specialties	Provide fire extinguishers and cabinets as required by code.
D50	Electrical	
D5010	Facility Power Generation	Electrical power will be provided by the local utility company and extended from existing switchgear. Expand existing service entry if required.
D5020	Electrical Service and Distribution	Adjust electrical service to remodeled spaces as required Provide a detailed description of the proposed Electrical Service and Distribution as part of the Step 1 Report. A narrative description is acceptable. A preliminary riser diagram is desirable, but not required.
D5030	General Purpose Electrical Power	Provide appropriate power for all equipment requiring power. Provide electrical outlets per room function. Provide sufficient outlets to reach every space in the building with a cleaning device or power tool equipped with a 25' long power cord.
D5040	Lighting	Provide lighting for all spaces per IES Standards. Provide egress lighting per code. Provide a detailed narrative description of building lighting systems as part of the Design-Builder's Step 1 Report
D5080	Miscellaneous Electrical Systems	Provide or extend existing following systems in the building, and describe each proposed system in the Design-Builder's Step 1 Report.

NUMBER	TITLE	DESCRIPTION
D60	Communications	
D70	Electronic Safety and Security	
D80	Integrated Automation	
D6010	Data Communications	<p>Coordinate IT, Communications, Audio-Visual Systems, Electronic Safety & Security Systems and Integrated Building Automation Systems with Owner's technology director.</p> <p>Design-Builder is generally responsible to provide all rough-in for these systems, including raceways, cable trays, racks, patch panels, cabling, gang boxes, back boxes, floor boxes, pull boxes, supports and power.</p> <p>This includes provision of empty conduit and pull boxes at the track for future scoring and timing equipment.</p> <p>The Design-Builder's Step 1 Report must include a detailed description of each system, which includes:</p> <ul style="list-style-type: none"> • <i>Description of function, features and major components of each system</i> • <i>Identification of the party responsible to provide each system,</i> • <i>Demark locations between systems</i> • <i>Budgeted cost for each system and its major components.</i>
D6020	Voice Communications	
D6030	Audio-Video Communication	
D6060	Distributed Communications and Monitoring	
D6090	Communications Supplementary Components	
D7010	Access Control and Intrusion Detection	
D7030	Electronic Surveillance	
D7050	Detection and Alarm	
D7070	Electronic Monitoring and Control	
D7090	Electronic Safety and Security Supplementary Components	
D8010	Integrated Automation Facility Controls	
E	EQUIPMENT and FURNISHINGS	
E10	Equipment	
E1010	Vehicle and Pedestrian Equipment	Not anticipated in this project. Confirm in Step 1 Report
E1030	Commercial Equipment	Confirm extent of all equipment in Step 1 Report.
E1040	Institutional Equipment	
E1060	Residential Equipment	
E1070	Entertainment and Recreational Equipment	
E1090	Other Equipment	
E20	Furnishings	
E2010	Fixed Furnishings	Confirm extent of any fixed furnishings in Step 1 Report.
E2050	Moveable Furnishings	Provide layout of moveable furnishing in all spaces to confirm space will accommodate necessary functions. All moveable furnishings (if any) by Owner.

NUMBER	TITLE	DESCRIPTION
F	SPECIAL CONSTRUCTION and DEMOLITION	
F10	Special Construction	
F1010	Integrated Construction	Not anticipated in this project. Confirm in Step 1 Report.
F1020	Special Structures	Not anticipated in this project. Confirm in Step 1 Report.
F1030	Special Function Construction	Not anticipated in this project. Confirm in Step 1 Report
F1060	Athletic and Recreational Special Construction	Not anticipated in this project. Confirm in Step 1 Report
F1080	Special Instrumentation	Not anticipated in this project. Confirm in Step 1 Report.
F20	Facility Remediation	
F2010	Hazardous Materials Remediation	No Hazardous Materials Remediation is anticipated for this project. Confirm in Step 1 Report.
F30	Demolition	
F3010	Structure Demolition	Not anticipated in this project. Confirm in Step 1 Report. Owner to remove nearby temporary classroom units.
F3030	Selective Demolition	Confirm extent of Selective Demolition in Step 1 Report.
F3050	Structure Moving	No structure moving is anticipated for this project. Confirm in Step 1 Report.
G	SITEWORK	
G1010	Site Clearing	Design-Builder to clear the site, provide earthwork grading and establish building pad as required. Work will include extension of any existing utilities into the addition site and establishment of any new utility easements. Provide description of Site Preparation Work in Step 1 Report
G1020	Site Elements Demolition	
G1050	Site Remediation	
G1070	Site Earthwork	
G20	Site Improvements	
G2010	Roadways	No changes to existing roadways anticipated. Confirm in Step 1 Report.
G2020	Parking Lots	No changes to existing paved areas anticipated. Confirm in Step 1 Report.
G2030	Pedestrian Plazas and Walkways	The minimum sidewalk width on the site is 8'. Provide walkways from public parking to track spectator seating area.
G2040	Airfields	No airfields are anticipated as part of this project.
G2050	Athletic, Recreational and Playfield Areas	None anticipated as part of this project.
G2060	Site Development	To be determined in Step 1 Report.
G2080	Landscaping	Seed any areas disturbed by construction and not part of the new track. Provide maintenance, fertilization and watering required to establish a firm stand of turf.
G30	Liquid and Gas Site Utilities	

NUMBER	TITLE	DESCRIPTION
G3010	Water Utilities	Municipal water service is available at the site
G3020	Sanitary Sewerage Utilities	Meet state and local codes for food service establishments. Verify in Step 1 Report.
G3030	Storm Drainage Utilities	No new systems anticipated for this project. Confirm in Step 1 Report.
G3050	Site Energy Distribution	Not required for this project. Confirm in Step 1 Report.
G3060	Site Fuel Distribution	
G3090	Liquid and Gas Site Utilities Supplementary Components	
G40	Electrical Site Improvements	
G4010	Site Electric Distribution Systems	Existing local electrical utility service is available to the site and shall be extended by the Design-Builder to serve the needs of this project.
G4050	Site Lighting	No new site lighting is anticipated as part of this project.
G50	Site Communications	
G5010	Site Communications Systems	Not required for this project.
G90	Miscellaneous Site Construction	
G9010	Tunnels	No tunnels are anticipated as part of this project. Confirm in Step 1 Report.
Z	GENERAL	
Z10	General Requirements	
Z1010	Price and Payment Procedures	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z1020	Administrative Requirements	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z1040	Quality Requirements	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions). The Design-Builder's Step 1 Report shall include a QA/QC plan negotiated between Owner and Design-Builder.
Z1050	Temporary Facilities and Controls	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions) The Design-Builder's Step 1 Report shall include a site-specific mobilization and safety plan negotiated between Owner and Design-Builder
Z1060	Product Requirements	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z1070	Execution and Closeout Requirements	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z1090	Life Cycle Activities	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions) The Design-Builder's Proposal shall include a description of LCCA Activities to be included in the Design-Builder's Step 1 Services.

NUMBER	TITLE	DESCRIPTION
Z70	Taxes, Permits, Insurance and Bonds	
Z7010	Taxes	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z7030	License Fees	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z7050	Permit Costs	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions) The Design-Builder's Step 1 Report shall include a Permitting plan and schedule negotiated between Owner and Design-Builder
Z7070	Bonding	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions). Performance and Payment Bonds are required for this project at the time of Notice to Proceed with Step 2 Services. Step 1 Services and design fees do not need to be bonded.
Z90	Fees and Contingencies	
Z9010	Overhead	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z9030	Profit	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions)
Z9050	Contingencies	See the RFQ/RFP and C-Series Attachments (Form of Agreement and Form of General Conditions) During Step 1 Services, Owner and Design-Builder will participate in joint contingency development, the results of which the Design-Builder will include in the Step 1 Report.
Z9090	Financing Costs	The Owner is responsible for its financing costs.

**NOTICE OF COMBINED
REQUEST FOR QUALIFICATIONS and REQUEST FOR PROPOSAL
FOR
PROGRESSIVE DESIGN-BUILD CONTRACT**

Notice is hereby given that North White School Corporation, White County, Indiana (the "School Corporation"), requests any design-builder (as defined in Indiana Code Section 5-30-1-4, as amended) which is interested in being considered by the School Corporation as a potential design-builder with respect to the design, construction and equipping of the 2024 Culinary Arts Program Improvements Project (the "Project"), located at North White Middle-High School, 305 East Broadway Street, Monon, Indiana 47959, as described in more detail in the Combined Request for Qualifications and Request for Proposal, dated April 24, 2024 (the "RFQ/RFP") to submit Verified Statements of Qualification and Proposals as set forth in Indiana Code Section 5-30-5-1(c), as amended.

All responses to the RFQ/RFP shall be received until 2:00 PM, Eastern Daylight Saving Time on Friday, May 24, 2024 at the Administrative Office of North White School Corporation, Attention: Nick Eccles, Superintendent, 402 East Broadway Street, Monon, Indiana 47959. Each response to the RFQ/RFP must be in accordance with the RFQ/RFP, all of which is incorporated herein by reference, and all of the provisions of Indiana Code 5-30, as amended and as applicable to the RFQ/RFP and the RFQ/RFP process, and must be submitted by a person or entity satisfying the definition of a design-builder or team, each as defined in Indiana Code 5-30-1, as amended (each a "Design-Builder")

For a copy of the RFQ/RFP, contact the School Corporation's Design Criteria Developer (the "DCD"):

Daniel D. Rawlins, RA, DBIA
The Rawlins Group, LLC
6706 Marmont Circle
Indianapolis, Indiana 46220
e-mail: dan@therawlinsgroup.com
telephone: (317) 441-7905.

As of the date of publication of this notice, all communications between the School Corporation and any prospective Design-Builder is to be through the School Corporation's Design Criteria Developer.

A Pre-Submittal Conference will not be conducted for this project. Proposers may request a pre-proposal breakout interview with the TRC by contacting the School Corporation's Design Criteria Developer prior to 5:00 pm Eastern Daylight Saving Time on Friday, April 26, 2024. Breakout interviews, if requested, will be scheduled the week of April 29, 2024. Any Design-Builder with questions about the project and the RFQ/RFP process should contact the School Corporation's Design Criteria Developer.

The RFQ/RFP contains, but is not limited to, the following: (a) A description of the Project, including the size and function of the facilities that are the subject of the Project, the approximate budget (less than \$1,000,000) and the anticipated schedule, (b) A description of the selection process, including the process for communications between the potential Design-Builders and the School Corporation, including, but not limited to the North White School Corporation Technical Review Committee (the "TRC") and any agent of either the School Corporation or the TRC, the schedule for the selection process, the TRC procedure and a description of submission requirements; (c) The general qualifications for prospective Design-Builders, including appropriate experience with similar projects, team experience with design-build, organizational resources and depth of the Design-Builder, the prospective Design-Builder's history of contracting with or hiring minority business enterprises and women's business enterprises, the prospective Design-Builder's litigation and disputes history and the prospective Design-Builder's experience in dealing with bonding authorities; (d) The Project specification qualifications for prospective Design-Builder, including: The prospective Design-Builder's experience with the facilities or building types that are the subject of the Project, the prospective Design-Builder's performance record, including quality, schedule and cost of each project, the prospective Design-Builder's proposed team composition,

including the team's past experience in working together, the prospective Design-Builder's proposed key project personnel and the prospective Design-Builder's client references; and (e) A description of the qualifications statement evaluation process, which includes: An established rating system that complies with Indiana Code Section 5-30-5-4, as amended and Indiana Code Section 5-30-5-5, as amended.

All of the information set forth in the RFQ/RFP as described in the paragraph above are incorporated into this notice by reference. In addition to the foregoing information, the response submitted by prospective Design-Builders must include all of the information required by Indiana Code Section 5-30-5-3, as amended.

After reviewing and evaluating all of the responses to the RFQ/RFP received by the date and time set forth above, the TRC shall identify and recommend to the Board the Design-Builder that is Highly Qualified and provides the Best Value proposal to the taxpayers of the School Corporation. The TRC or the School Corporation reserves the right to reject for any reason and for no reason at all any and all responses received to the RFQ/RFP and to be the sole judge of the value and merit of the responses offered. The School Corporation reserves the right to terminate for any reason and for no reason at all this Project prior to awarding the design-build contract,

Dated: April 24, 2024

NORTH WHITE SCHOOL CORPORATION
WHITE COUNTY, INDIANA

By: Nick Eccles, *Superintendent*

[TO BE PUBLISHED TWO (2) TIMES, ON April 24, 2024 and May 1, 2024
IN AT LEAST ONE (1) NEWSPAPER PUBLISHED OR OF GENERAL CIRCULATION
IN THE SCHOOL CORPORATION]

Exhibit B-2

VERIFIED STATEMENT OF QUALIFICATIONS and QUALITATIVE PROPOSAL QUESTIONNAIRE

North White School Corporation

2024 CULINARY ARTS PROGRAM PROJECT

QUESTIONNAIRE FOR DESIGN-BUILD SERVICES

PLEASE NOTE: Any question that includes a legal citation reference requires a direct response in order to be in compliance with the Indiana Public Works Design-Build Law [IC 5-30]

TAB 1: Design-Builder Identification | Oath and Affirmation

1.1. Date of Submittal of Verified Statement of Qualifications

1.2. Legal Name of Design-Build Entity

1.2.1. d/b/a Name (if different than legal name)

1.2.2. Street Address

1.2.3. City, State, Zip Code

1.2.4. Federal ID Number

1.2.5. Website URL

1.3. Identification of Primary Contact Person

1.3.1. Name

1.3.2. Title

1.3.3. Office Telephone Number

1.3.4. Cellular Telephone Number

1.3.5. E-mail address

1.4. Verification: Provide a Notarized Oath and Affirmation on Design-Builder's Letterhead that reads as follows:

"OATH AND AFFIRMATION

I affirm under the penalties of perjury that the facts and information included in this Verified Statement of Qualifications are true and correct to the best of my knowledge and belief.

Dated at _____ this _____ day _____ of _____

(Name of Design-Build Entity)

By: _____

(Title of Individual Signing)

ACKNOWLEDGEMENT

State of _____)

) ss:

County of: _____)

_____ being duly sworn, deposes and says that he/she is _____ of the above _____

(Name of Individual)

(Title)

(Name of Organization)

and that the statements contained in this Verified Statement of Qualifications are true and correct.

Subscribed and sworn before me this _____ day of _____

My Commission Expires ____/____/____

County of Residence _____

(Notary Public)

TAB 2: Executive Summary

Provide a concise statement that summarizes the reasons why this team should be selected as the Design-Builder for this project.

Organize the Executive Summary in accordance with the Qualitative Proposal evaluation criteria found in Section 3.14 of the RFQ/RFP.

TAB 3: Organization and Leadership

3.1. What is the business organization of the Design-Build Entity?

☐ **Integrated Team:** Design-Build Entity includes both design and construction services as employees of the Design-Build Entity. Services not performed by the Design-Build Entity are subcontracted to the Design-Build Entity.

☐ **Integrated Team with a Teaming Agreement:** Design-Build Entity includes both design and construction services as employees of the Design-Build Entity. Services not performed by the Design-Build Entity are subcontracted to the Design-Build Entity, with key subcontractors and subconsultants performing under a teaming agreement. If so, provide a copy of the Teaming Agreement behind Tab 1, with other supplementary information.

☐ **Sole Services:** Design-Build Entity holds the Contract with the Owner and all other team members are subcontracted to the Design-Build Entity.

☐ **Sole Services with a Teaming Agreement:** Design-Build Entity holds the Contract with the Owner and all other team members are subcontracted to the Design-Build Entity, with some key members of the team participating under a formal teaming agreement for the pursuit of the project. If so, provide a copy of the Teaming Agreement behind Tab 1, with other supplementary information.

☐ **Joint Venture:** A special business entity has been formed to serve as the Design-Build Entity expressly for this Project. If so, provide full disclosure of the composition of the Joint Venture, including identification of the individuals that will assume the mantle of responsibility and liability for the project.

☐ **Other:** Provide full description.

3.2. List all the entities, including prime & trade contractors, architectural and engineering firms, as well as any other sub-consultants, suppliers, etc. that will be a part of the team at any point in the duration of the project. Provide the following information for each:

3.2.1. Role of the entity in the project

3.2.2. Point of engagement with the team:

- ☐ Currently a full member of the team
- ☐ Currently a conditional design-assist member of the team.
Describe the basis upon which this team member will be fully engaged, and the timing for full engagement to occur.
- ☐ Will become engaged after the draft RFP is issued and prior to the submittal of a Design-Build Proposal
- ☐ Will become engaged after award of the Design-Build Contract

3.2.3. Name of the entity

If the entity is not currently a full member of the team, list all of the entities under consideration for this position on the team.

- 3.3. Provide the following information about the individuals in key leadership roles for the project:
 - 3.3.1. Individual's Name
 - 3.3.2. Company / Title / Role on this Project.
 - 3.3.3. Education and Training.
 - 3.3.4. Professional Registrations and Certifications.
 - 3.3.5. Professional Experience, Representative Projects and Particular Talents.
 - 3.3.6. Responsibilities, other than this project, that will run concurrently with this project.
 - 3.3.7. Tenure this person has with the company, and in the current position.
- 3.4. Provide a responsibility chart and narrative that indicates how the Design-Builder's team will function, and how it will interface with the Owner, its vendors and consultants. Note that **Nick Eccles**, *Superintendent*, will serve as primary Owner contact.
- 3.5. In accordance with IC 5-30-5-3(b)(3), Provide a statement that the Design-Builder and/or team members have the licenses, registrations and credentials required to design and construct the project.
 - 3.5.1. List the names of all professionals who will provide the certifications necessary for this project and provide proof of certification of each. *Citing license numbers is sufficient proof. Photocopies of licenses are not required.*
 - 3.5.2. List the names of any individuals or entities that hold trade licenses or certifications that are needed for this project and provide proof of each.
 - 3.5.3. List the names of any individuals or entities on the Design-Builder's team who have ever been involved in debarment, disqualification or removal from a federal, state or local government public works project. Include the names of any individual or company that has had its license suspended or revoked.
 - Provide an explanation of the situation and any extenuating circumstances or remediation that otherwise would qualify the individual or entity to serve effectively as part of the Design-Builder's team for this project.
 - If there are no team member history of debarment, disqualification or removal from a project, please indicate so.
 - 3.5.4. Disclose any association or other circumstance that could be construed as a conflict of interest with the Owner, its consultants and established vendors. If you do not believe there to be any such circumstances, please indicate so.

TAB 4: General Qualifications

- 4.1. Provide Financial Statements for the Design-Builder that is specific enough in detail so that the Technical Review Committee can make proper determination of the Design-Builder's capability for completing the project if awarded.
 - 4.1.1. Provide Audited Financial Statements for 2022 and 2023
 - 4.1.2. Provide a Balance Sheet for 2024.
- 4.2. In accordance with IC 5-30-5-3(b)(9), Provide a Statement containing information concerning any bankruptcy or receivership, past or present of the Design-Builder or a member of the Design-Builder's team. If no such condition exists, provide a statement to attesting to that fact.
- 4.3. In accordance with IC 5-30-5-2(2)(G), Provide an account of any history of litigation and disputes between any Public Entity Owner, or any other Owner, and the Design-Builder or any member of the Design-Builder's team.
 - 4.3.1. Provide a list of all outstanding or past judgments or lawsuits against the Design-Builder, its team members and/or Owners.
 - 4.3.2. Provide a summary of any mediation or arbitration history of the Design-Builder and its team members in the past ten (10) years.

- 4.4. In accordance with IC 5-30-5-3(b)(4), Provide a summary statement that the Design-Builder has the capacity to obtain all required Payment and Performance bonding, liability insurance, and errors and omissions insurance. Provide validation of that fact with the information requested below:
- 4.4.1. Provide a letter from Surety indicating that the Design-Builder has the capacity to Bond a project of at least \$2,000,000 in value.
 - 4.4.2. Provide Certificates of Insurance demonstrating compliance with stated minimum coverage for Worker's Compensation & Liability Insurance.
 - 4.4.3. Provide Certificates of Insurance demonstrating compliance with stated minimum coverage for Commercial General Liability Insurance.
 - 4.4.4. Provide Certificates of Insurance demonstrating compliance with stated minimum coverage for Professional Services (Errors & Omissions) Liability Insurance.
 - *Provide verification of a minimum three-year carry-over of Professional Services Liability Insurance coverage or similar length extended reporting period from the date of Substantial Completion.*
 - 4.4.5. Provide Certificates of Insurance demonstrating compliance with stated minimum coverage for Comprehensive Auto Liability Insurance.
 - 4.4.6. Provide Certificates of Insurance demonstrating compliance with stated minimum coverage for Umbrella Excess Liability Insurance.
- 4.5. Provide the following information to allow the Technical Review Committee to evaluate the Design-Builder's safety performance record. Provide this information for the firm that will be providing the umbrella of leadership responsibility and liability for the Design-Builder. Design-Builders must validate their on-going safety program in one of the following ways:
- 4.5.1 Safety Program Documentation Option 1: Document that the Design-Build Entity has established and maintained participating membership status in any one of the following industry construction safety programs:
 - Coalition for Construction Safety (CCS): "Qualified" or "Certified" Status.
 - IDOL Safety Partnership Programs – Provide a letter from the Directors of ICA or ABC attesting to the Design-Builder's Participation in the IDOL Safety Partnership Program.
 - 4.5.2 Safety Program Documentation Option 2: Provide the following information about the Design-Build Entity's Safety Program:
 - Provide one (1) copy of the Design-Builder's Occupational Safety and Health Administration (OSHA) Form 300A, Summary of Work-Related Injuries and Illnesses for each of the three calendar years preceding the current year. Provide an accompanying explanation of the nature of injuries or illnesses reported on OSHA Forms 300A
 - Provide Design-Builder's SIC (Standard Industrial Classification) and/or NAICS (North American Industrial Classification System) Codes as defined by the U.S. Department of Labor's Bureau of Labor Statistics (BLS).
 - Provide documentation and a summary of the Design-Builder's on-going Safety and Training plans that are most pertinent to this project. (Note: A copy of the cover and Table of Contents of the Design-Builder's safety plan will generally suffice for compliance with this requirement.)
- 4.6. In accordance with IC 5-30-5-3(b)(5), Provide documentation of Design-Builder's current Experience Modifier Rate (EMR) for each of the past three (3) calendar years [2023, 2022, 2021].
- 4.7. In accordance with IC 5-30-5-3(b)(5), Provide documentation of Design-Builder's illness and injury total recordable case incidence rate (TCIR/TRIR) for each of the past three (3) years [2023, 2022, 2021].

- 4.8. In accordance with IC 5-30-5-3-(b)-(5), Provide documentation of Design-Builder's illness and injury days away, restricted, or transfer case incident rate (DART) for each of the past three (3) years [2023, 2022, 2021].
- 4.9. In accordance with IC 5-30-5-3-(b)-(8), Provide a statement regarding any prior serious, repeat, willful, or criminal violation of the federal Occupational Safety and Health Act of 1970 and any equivalent violation under a state plan authorized under Section 18 of the federal act that has become a final order for the Design-Builder or any member of the Design-Builder's team. If no such violations exist, provide a statement attesting to that fact.
- 4.10. Please identify the person primarily responsible for safety on this project.
(This person should be one of the individuals identified in response to Question 3.3 of this Questionnaire).
- 4.11. In accordance with IC 5-30-5-2-(2)-(F), Provide an account of the Design-Builder's and Design-Builder's team's history of contracting with or hiring minority business enterprises (MBE) and women's business enterprises (WBE).
- 4.12. In accordance with Senate Enrolled Act 590 (2011), Indiana Code Section 12-32-1, as amended and Indiana Code Section 22-5-1.7, as amended, provide a statement affirming the Design-Builder's current status of enrollment in the Federal E-Verify program, as well as the Design-Builder's ability to sign the Owner's E-Verify affidavit.
- 4.13. Provide a copy of the Design-Builder's written corporate non-discrimination policy.
- 4.14. Provide a copy of the Design-Builder's written employee drug testing program to verify compliance with IC 4-13-18-5 or IC 4-13-18-6.
- 4.15. Provide a copy of the Design-Builder's policy for performing background checks for all team members working on the Project Site.
- 4.16. In compliance with IC 5-30-5-3(b)(6), provide a statement that the Design-Builder or employees of the firm performing construction services, including employees of all subcontractors, have completed or are enrolled in an apprenticeship program certified by the United States Department of Labor Bureau of Apprenticeship and Training.

TAB 5: Experience and Performance Record

- 5.1. How long has your firm been involved in the Design-Build profession? Please provide an overview of your company's history in providing professional services for Public Owners in Indiana.
- 5.2. What experience do the team members identified for this project have in providing Design-Build services for projects of similar size and scope as the proposed project?
- 5.3. What experience do the team members identified for this project have in working together successfully on other projects of similar size and scope as the proposed project that have used delivery methods other than Design-Build?
- 5.4. Submit a list of up to five (5) similar facilities designed / constructed by the Design-Builder and Design-Builder's team that are most representative of the experience required for this Project. For each project, provide the following information:
 - 5.4.1. Name of the Project
 - 5.4.2. A brief description of the project. Why did you include it as an example?
 - 5.4.3. Representative Illustrations of the Project (Photographs, floor plans, renderings, etc.)
 - 5.4.4. Type of project delivery used
 - 5.4.5. Design-Build Entity's role in the Project
 - 5.4.6. Other Design-Builder's teammates roles in the Project
 - 5.4.7. Legal name of Owner
 - 5.4.8. Owner's Contact Person (Name, title, telephone, e-mail) – Have that individual complete the Professional Reference Form included with this RFQ/RFP as Attachment B-3

- 5.5. Provide a matrix citing the involvement those individuals identified in response to question 3.3 above had with the projects cited in response to question 5.4 above.
- 5.6. Has your firm ever failed to complete a project? If the answer is “yes”, please explain.
- 5.7. In accordance with IC 5-30-5-3(b)(2), provide a summary statement that the Design-Builder and/or team members have completed or demonstrated the experience, competency, capability to complete projects of similar size, scope or complexity; and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project. Provide specific examples that serve to validate the statement provided.

TAB 6: References

Please provide at least three additional references from Owners other than those listed in response to question 5.4 above.

Provide a written list of the individuals cited as references in response to this section as the formal response behind Tab 6

Offerors are responsible for ensuring that each individual listed as a reference, either in this Section or in response to Question 5.4.8 above, completes the Professional Reference Form included in this RFQ/RFP as Attachment B-3 and submits it via e-mail: dan@therawlingsgroup.com to the Owner's Design Criteria Developer no later than 5:00 PM EDT Friday, May 31, 2024.

TAB 7: Overall Management Approach

- 7.1. Team's Understanding of Owner's Project Goals and Objectives: Based on the information provided in the RFQ/RFP, the pre-proposal breakout meeting and project background data available on the School Corporation website, what is your current understanding of the Owner's goals and objectives for the project? Where would you like to take a deeper dive with the Owner to more fully understand those goals and objectives? If you were selected as Design-Builder for the project, how would you accomplish that deeper understanding?
- 7.2. Project Challenges, Constraints and Opportunities: Identify what your team believes are the three (3) greatest challenges facing the success of the project. For each challenge identified:
 - Propose a strategy to mitigate the potential negative impact of the challenge.
 - What makes your team uniquely qualified to address this challenge? Cite any strengths, innovative proven approaches and/or differentiating resources (including key Team Members) that will assist the Proposed Design-Build Team to implement the strategy and assist the Owner in achieving its goals.
- 7.3. Design Excellence: Describe the Design-Build Team's overall approach to the integration of the design process with construction, including Design Excellence definition and tracking, design management and design commitment. Describe the tools you will use to complete design and manage its process toward meeting the project goals and objectives.
- 7.4. Safety Management: Describe the Design-Build Team's commitment to safety and what innovations the team will bring to the project to enhance safety. Describe how you will create a jobsite specific safety plan during the execution of Phase 1 Progressive Design-Build Services.
- 7.5. Quality Assurance and Quality Control: Describe your quality management plan for both design phases and construction of the project. What processes and tools will you employ to facilitate QA/QC?

- 7.6. Communications: How will your team achieve exemplary communications within your team and between your team and the Owner?
 - 7.6.1. How will you document the Design-Build Process?
 - 7.6.2. How will you keep the entire team informed and provide information needed to make timely, intelligent decisions?
 - 7.6.3. How will you proactively identify emerging Project issues and appropriately address and reconcile them before they adversely affect the Project?
- 7.7. Team Collaboration and Integration: One of the primary goals for the Project is to create a highly functioning, collaborative, and integrated team as early as possible and to incorporate the Owner's staff and consultants as part of that team. Explain the Design-Build Team's approach to creating a collaborative environment for the Project.
 - 7.7.1. Describe how the Design-Build Team will engage the Project Stakeholders and incorporate their input into the Project.
 - 7.7.2. Provide the Design-Builder's approach to conflict resolution between the Owner and the Design-Builder and among members of the Design-Build Team.
- 7.8. Trade Contractor Engagement: The Owner recognizes the importance of early engagement of the entire design-build team, including specialty design-build subcontractors. For those subcontractors and subconsultants not already proposed as part of the Design-Build Team,
 - 7.8.1. Describe the Design-Build Team's overall approach to subcontractor and subconsultant procurement for the Project.
 - 7.8.2. Identify the challenges in the selection of subcontractors and subconsultants for the Project and how the Design-Build Team will address those challenges.
 - 7.8.3. Describe in detail the Design-Build Team's approach to early subcontractor involvement, including proposed design-build and design-assist subcontractors, and identify which scopes of Work are candidates for design-build or design-assist subcontracts.

TAB 8: Design-to-Target Budget Management

- 8.1. Describe how your team will collaborate with the Owner to review the preliminary project information and establish a realistic target cost model budget for the project before design begins.
 - 8.1.1. How will you guide the Owner to gain a common understanding of the trade-off decisions concerning scope, quality, schedule and budget that must be made for each component of the Project?
 - 8.1.2. How will you collaboratively determine with the Owner which aspects of the project deserve a greater exploration of options and for which systems design direction can be determined early, with fewer options studied?
- 8.2. Describe the Design-Builder's processes and tools for monitoring, reporting, and managing the evolution of design to target budget, including but not limited to:
 - 8.2.1. Design to budget control and reporting processes.
 - 8.2.2. Scope, cost, and schedule baseline development and management/design evolution control processes and the participation and interaction among the scheduling and estimating teams, project, design, construction, and operations management teams with the Owner to execute these processes.
 - 8.2.3. Risk management processes and how quantified risk cost and schedule values are factored into the cost and schedule baseline, projected cost and schedule performance, and cash flow reporting.
 - 8.2.4. Cash flow reporting processes and basis for monthly cash flow estimated values.

- 8.2.5. Process to plan, track, cash flow, and correctly bill work in place.
- 8.2.6. Document control system integration with work breakdown structure and responsibility assignment matrix or organizational structure.
- 8.3. What are the primary challenges with respect to project controls and how will those challenges be met?
- 8.4. Describe the Design-Builder's processes and tools for developing the Contract Price (a GMP or Lump Sum) during Phase 1 Progressive Design-Build Services and addressing such issues as:
 - 8.4.1. The optimum time to establish the Contract Price (GMP or Lump Sum);
 - 8.4.2. How the Contract Price will be calculated;
 - 8.4.3. How the Design-Builder proposes to deal with unknown issues such as contingencies, allowances, and escalation factors;
 - 8.4.4. The Design-Builder's conceptual estimating process;
 - 8.4.5. Input from specialty contractors;
 - 8.4.6. The primary challenges in establishing the Contract Price; and
- 8.5. Describe the differentiating resources of the proposed Design-Build Team that will meet the challenges of establishing the Contract Price.

**TAB 9: Design-Builder's Proposed Schedule
for Phase 1 Progressive Design-Build Services**

- 9.1. Describe the proposed Design-Build Team's overall approach to scheduling and construction sequencing for the Project.
 - 9.1.1. In addition to the overall approach, include a description as to how the Design-Build Team will address regulatory and stakeholder approvals for the permitting process.
 - 9.1.2. Identify the challenges in scheduling the construction for the Project and how the Design-Build Team will address those challenges.
 - 9.1.3. Provide details regarding the tools used in developing optimal sequencing and coordination of the Work and how those tools will assist the Design-Builder in achieving those goals including but not limited to: Building Information Modeling; and Administration of the consultants, subconsultants, and subcontractors.
- 9.2. Describe the tools and methodology for the development of the baseline schedule including durations, sequencing and logic, and skilled labor availability for determining manpower projections.
- 9.3. Provide a detailed schedule for the execution of Phase 1 Progressive Design-Build Services.

TAB 10: Collateral Material

Include any other material you feel would help the Technical Review Committee understand and appreciate your capabilities and unique distinction that would make the TRC consider you most highly qualified to serve as Design-Builder for this project.

Note: There is no requirement to include any collateral material. If any is included, it is at the prerogative of the Design-Builder.

Any and all collateral material should be placed behind TAB 10

Professional Reference Form

North White School Corporation

2024 Culinary Arts Program Project

You have been asked to provide a professional reference for a member of a Design-Build Team that is submitting its qualifications for the project referenced above.

Please complete this form and e-mail it to dan@therawlingsgroup.com no later than 5:00 PM, EDT on Friday, May 31, 2024.

Your Name: Click or tap here to enter text.

Company / Organization: Click or tap here to enter text.

Telephone: Click or tap here to enter text.

E-Mail: Click or tap here to enter text.

Reference For: Click or tap here to enter text. (the Company)

Project: Click or tap here to enter text.

1. How would you rank the service you received from the Company for this Project?

☐Excellent ☐Very Good ☐Adequate ☐Inadequate

2. The Project was completed:

☐Ahead of Schedule ☐On Time ☐Late ☐Not Completed

3. The Project was completed:

☐Under Budget ☐On Budget ☐Over Budget

4. The Project delivery method used was:

☐Design-Bid-Build ☐Design-Build ☐CM at Risk
☐CM Agency ☐Other: Click or tap here to enter text.

5. The best aspect of the Company's services is: Click or tap here to enter text.

6. One thing the Company could do better is: Click or tap here to enter text.

Letter of Intent to Enter into a Progressive Design-Build Contract

OWNER: **North White School Corporation**
402 East Broadway Street
Monon, IN 47959

PROJECT: **2024 Culinary Arts Program Project**
North White Middle-High School
305 East Broadway Street
Monon, IN 47959

DESIGN-BUILDER: **[Design-Builder]**
[Street Address]
[City], [State] [Zip Code]

THIS LETTER OF INTENT TO ENTER INTO A PROGRESSIVE DESIGN-BUILD CONTRACT is issued as of this 10th Day of June, 2024 (the “LOI”) by NORTH WHITE SCHOOL CORPORATION (the “Owner”) to [INSERT DESIGN-BUILDER], (the “Design-Builder”).

1. The Owner has undertaken the process set forth in Indiana Code Section 5-30 to procure the services of a Design-Builder under a Progressive Design-Build Contract for the Design and Construction of additions and improvements to the existing school district facilities (the “Project”).
2. The Owner’s Project Criteria are identified in the Combined Request for Qualifications and Request for Proposal (the “RFQ/RFP”) dated April 24, 2024, including all attachments and addenda.
3. On May 24, 2024, the Design-Builder submitted both a Verified Statement of Qualifications and Proposal (the “VSQ/Proposal”) in accordance with IC 5-30-7-1 and the RFQ/RFP.
4. The Design-Builder’s Qualifications and Proposal have been evaluated and deemed to be the best value proposal among those received in accordance with IC 5-30-7-6.

NOW THEREFORE, prior to execution of the Design-Build Agreement, and to formalize the process of negotiation of contract terms, as permitted by IC 5-30-7-8, the Owner and the Design-Builder agree as follows:

1. The Design-Builder will provide the Owner with Step 1 Progressive Design-Build Services as identified in the Owner’s RFQ/RFP, the Proposed Form of Agreement and the Design-Builder’s Proposal for a lump sum fee of [insert Step One Fee in Words] (\$numerals).
 - 1.1. The Contract Sum will include the Step 1 Services Fee as a line item in the Contract Price Exhibit included as part of the Step 1 Report and as an attachment to the Design-Build Agreement. The Design-Build Agreement, if executed, will include the Step 1 Services Fee as a portion of the Contract Sum.
 - 1.2. If Contract negotiations are terminated, and the Design-Build Agreement is not executed, the Step 1 Services Fee represents the entire amount that will be paid to the Design-Builder.
2. Unless otherwise provided by addendum to this LOI, the Design-Builder will submit the final Step 1 Report to the Owner by [insert date from proposal].
 - 2.1. The Owner will appoint a Design-Review Committee to participate in the Design-Builder’s delivery of Step 1 Progressive Design-Build Services. The Design Review Committee will be chaired and coordinated by the Superintendent of Schools. The Design Review Committee will represent the Owner’s review and participation responsibilities as set forth in the Design-Builder’s Proposal, except as noted below.

3. The RFQ/RFP includes a Form of Agreement that is subject to final negotiation of terms and conditions. The goal of this LOI and the Step 1 Progressive Design-Build Services that it authorizes is to fully negotiate all terms and conditions of the Agreement, except for those that are deemed non-negotiable. Non-negotiable terms and conditions are identified as follows:
 - 3.1. Any terms and conditions of the Form of Agreement and the Basis of Design Documents that exist for compliance with any Federal, State or Local Law or Ordinance are non-negotiable.
4. Near completion of the Step 1 Progressive Design-Build Report, and prior to submittal of the final report to the Owner, the Design-Builder shall submit a near-final draft to the Superintendent of Schools and Owner's Design Criteria Developer for verification that the Report meets the requirements of the RFQ/RFP.
 - 4.1. Superintendent and Owner's Design Criteria Developer will complete the review of the near-final draft Report within seven (7) calendar days of receipt and issue written comments to the Owner a Design-Builder.
5. After receiving the review comments of the near-final draft of the Step 1 Report, the Design-Builder shall make any appropriate revisions and issue a final draft Report to the Owner.
 - 5.1. The Design-Builder shall make a public presentation of the final draft of the Step 1 Report to the Board of School Trustees.
 - 5.2. After making the presentation of the final draft, the Design-Builder shall make any appropriate revisions and submit the Final Step 1 Report to the Owner.
 - 5.3. The review of the near-final draft of the Report by the Superintendent and DCD, and the review of the final draft of the Report by the School Board together constitute the Owner's Review of the Step 1 Report.
6. Upon receipt of the Final Step 1 Progressive Design-Build Report, The Owner may take any of the following actions:
 - 6.1. Accept the Step 1 Report, execute the Design-Build Agreement and authorize 2 Services. If this action is taken, the terms and conditions of the executed Agreement supersede any terms of the Form of Agreement included in the RFP.
 - 6.2. Suggest modifications to the Report, whereupon Section 2.3.2.1 set forth in the Form of Agreement applies.
 - 6.3. Reject the Report and terminate negotiations. In this event, Section 2.3.2.3.2 as set forth in the Form of Agreement applies. The Design-Builder shall be paid the amount stated in this LOI for Step 1 Progressive Design-Build Services. This amount shall represent full satisfaction and payment of all amounts due Design-Builder and supersedes any incomplete negotiation of terms and conditions that may have occurred during the execution of Step 1 Progressive Design-Build Services.
7. Regardless of the action taken by the Owner upon the Step 1 Report, upon the Owner's payment of the Step 1 Fee to the Design-Builder, the Design-Builder grants the Owner a Limited License to use the information and intellectual property represented in the Step 1 Report in accordance with Article 5 of the Executed Agreement, or of Form of Agreement in the RFP, whichever applies. In either case, Additional Compensation set forth in Section 5.3.2 of the Agreement does not apply if the Step 1 Report represents the entire body of Work Product completed by the Design-Builder.

ISSUED BY:
NORTH WHITE SCHOOL CORPORATION

Signature	Printed Name, Board President	Date
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Signature	Printed Name, Board Secretary	Date
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ACCEPTED BY
[INSERT DESIGN-BUILDER]

Signature	Printed Name and Title	Date
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Progressive Design- Build Agreement

Sample Form of Agreement | Amended for IC 5-30



Document No. 544

Second Edition, 2022

© Design-Build Institute of America
Washington, D.C.





Progressive Design-Build Agreement

This document has important legal consequences. Consultation with an attorney is recommended with respect to its completion or modification.

This **AGREEMENT** is made as of the _____ day of _____, in the year of 20____, by and between the following parties, for services in connection with the Project identified below:

OWNER:

(Name and address)

North White School Corporation
402 East Broadway Street
Monon, Indiana 47959

DESIGN-BUILDER:

(Name and address)

Design-Builder's Legal Name
Street Address
City, State Zip Code

PROJECT:

(Include Project name and location as it will appear in the Contract Documents)

2024 Culinary Arts Program Project
North White Middle-High School
305 East Broadway Street
Monon, IN 47959

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Article 1

General

- 1.1 **Duty to Cooperate.** Owner and Design-Builder commit at all times to cooperate fully with each other and enter into this Agreement on the basis of trust, respect, and good faith to permit each party to realize the benefits afforded under this Agreement.
- 1.2 **Definitions.** Terms, words, and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2022 Edition, as amended). ("General Conditions of the Contract")
- 1.3 **Design Services.** Design-Builder shall, consistent with applicable State of Indiana licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, licensed design professionals who are either (i) directly employed by the Design-Builder, or (ii) procured by Design-Builder as subconsultants from independent sources. Nothing in this Agreement is intended to create any legal or contractual relationship between Owner and any independent design professional.
- 1.4 **Design-Build Services** shall be delivered consistent with Indiana Code Section 5-30, as amended, and all other Federal, State and Local guidelines, standards, ordinances, rules, regulations, and laws.

Article 2

Design-Builder's Services and Responsibilities

- 2.1 **General Services.**
 - 2.1.1 Owner shall provide Design-Builder with Owner's preliminary Project Criteria describing Owner's program requirements and objectives for the Project as set forth in the RFP. Owner's preliminary Project Criteria may include Owner's use, space, price, time, site, performance, and expandability requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner.
 - 2.1.2 Design-Builder will assist Owner in developing detailed Owner's Project Criteria as part of Design-Builder's Step 1 Progressive Design-Build Services. Design-Builder shall document Project Criteria as part of the Step 1 Report, including recommendations to Owner for different and innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's draft Step 1 Report and agree upon what revisions, if any, should be made to the Design-Builder's Step 1 Report prior to presenting the final report to the Owner for formal action.
- 2.2 **Two-Step Progressive Design-Build Services.**
 - 2.2.1 **Step 1 Services.** Design-Builder shall perform the services of programming, site & existing conditions due diligence, design, pricing, and other services for the Project based on Owner's preliminary Project Criteria. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to approve the Design-Builder's Step 1 Report and establish the Contract Price for Step 2, as set forth in Section 2.3 below. The Contract Price for Step 2 shall be developed during Step 1 on an "open-book" basis. Design-Builder's Compensation for Step 1 Services is set forth in Section 7.1.1 herein. The

minimum level of completion required for Step 1 Services is defined in Exhibit B1a, "Scope of Services", attached to this document.

2.2.2 **Step 2 Services.** Design-Builder's Step 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, assistance with Owner's procurement of all necessary permits and approvals from authorities having jurisdiction over the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Design-Builder's Step 1 Report and proposed Contract Price for Step 2, Owner may proceed as set forth in Section 2.3.

2.3 **Step 1 Report.** Upon completion of the Step 1 Services and any other Basis of Design Documents upon which the parties may agree, Design-Builder shall submit to Owner a Step 1 Report (the "Report") that outlines the design, scope, and quality of the entire Project. The Report also defines the Work required for the completion of the design, permitting and construction of the Project for the Contract Price, which may be based on either (i) a Lump Sum or (ii) Design-Builder's Fee plus Cost of the Work, with a Guaranteed Maximum Price (GMP).

2.3.1 Should the Design-Builder propose to complete the project in Phases, the Design-Builder shall submit a Step 1 Report to the Owner for each Phase of the Project prior to commencing Step 2 Services for that Phase. In such cases, the first Phase Step 1 Report shall include, at a minimum, the information identified in Section 2.3.2 hereof. The Step 1 Report for each subsequent Phase shall include, at a minimum, the information identified in Section 2.3.3 hereof.

2.3.2 The initial Step 1 Report shall include, at a minimum, the following information:

2.3.2.1 Basis of Design Documents, which are set forth in detail in Section 1.2.2 of the General Conditions of the Contract, and are attached to the Step 1 Report;

2.3.2.2 A list of assumptions and clarifications made by Design-Builder in the preparation of the Step 1 Report, which list is intended to supplement the information contained in the drawings, system narrative and specifications and is specifically included as part of the Basis of Design Documents.

2.3.2.3 The Contract Price for the Work proposed in the initial Step 1 Report, that may be based on either, (i) a Lump Sum, or (ii) Design-Builder's Fee plus Cost of the Work, with a GMP, which shall be the sum of:

1. Design-Builder's Fee as defined in Section 7.4.1 hereof, including the Design-Builder's Step 1 Fee defined in Section 7.1.1 hereof;
2. The estimated Cost of the Work as defined in Section 7.5 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.6.2 hereof; and
3. If applicable, any prices established under Section 7.1.3 hereof;

2.3.2.4 The Total Project Budget, including:

1. The Design-Builder's Contract Price defined in Section 2.3.2.3 hereof;
2. The estimated Design-Builder's Contract Price (by Phase) for any future Phases and Step 1 Reports as defined in Section 2.3.1 hereof;
3. Owner's Hard Construction Costs for any Work performed by others on behalf of Owner;
4. Owner's Soft Costs
5. Owner's Financing Costs

6. Identification of all contingencies and allowances, the purpose of each, the value of each and the party that controls the expenditure of each;
 7. Permitting and approval fees from authorities having jurisdiction over the Project; and
 8. Any other Project costs
- 2.3.2.5 A site-specific safety and mobilization plan, including any construction sequencing and phasing. Where applicable, include all provisions for maintaining Owner's ongoing operations during construction;
- 2.3.2.6 A detailed Step 2 Project Schedule, including key milestones for:
1. Date by which Step 1 Report must be accepted and Step 2 Notice to Proceed issued to maintain Project Schedule;
 2. Completion of Design, for each proposed Project Phase, as applicable;
 3. Step 1 Reports for any proposed future Project Phases;
 4. Permitting;
 5. Construction, arranged by key systems and elements;
 6. Testing for substantiation of performance requirements, commissioning, and other such turnover activities;
 7. Substantial Completion of each proposed Project Phase; and
 8. Final Completion of the Project
- 2.3.2.7 A Permit list indicating all permits and approvals required for the Work, the agency having jurisdiction over each permit or approval, the scheduled filing date for each, the anticipated release date for each, filing fees for each, and the responsibilities of the Owner and Design-Builder for obtaining each;
- 2.3.2.8 Meeting minutes of all proposal phase meetings and Step 1 meetings between the Owner and Design-Builder (can be by reference to a Project website. Does not need to be bound in the report);
- 2.3.2.9 The final proposed Form of Agreement and General Conditions of the Contract, negotiated between Owner and Design-Builder during the execution of Step 1 Progressive Design-Build Services; and
- 2.3.2.10 The Contract Price Exhibit for Scope of Work that is specifically subject of the Step 1 Report.
- 2.3.3 Any Step 1 Report for a subsequent Phase of the Work shall include, as a minimum, the following information:
- 2.3.3.1 Basis of Design Documents (Per Section 1.2.2 of the General Conditions of the Contract) for the Phase of Work upon which the Step 1 Report is based;
 - 2.3.3.2 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Phased Step 1 Report, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;
 - 2.3.3.3 The Scheduled Substantial Completion Date upon which the Phased Step 1 Report is based, to the extent said date has not already been established under

Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work;

- 2.3.3.4 An updated Total Project Budget, as identified in Section 2.3.2.4 hereof;
- 2.3.3.5 Summary of any changes from the initial (or prior phase) Step 1 Report, including, but not limited to: Site-specific safety and mobilization plan, Project Schedule, and permitting;
- 2.3.3.6 Meeting minutes since the initial (or prior phase) Step 1 Report; and
- 2.3.3.7 Contract Price Exhibit for this Phase.

2.3.4 **Review and Adjustment to Step 1 Report(s)**

- 2.3.4.1 After submission of the Draft Step 1 Report for each Phase, where applicable, Design-Builder and Owner shall meet to review and discuss the Step 1 Report. If Owner has any comments regarding the Report or finds any inconsistencies, inaccuracies or inadequacies in the information presented, it shall promptly give written notice to Design-Builder of any such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Step 1 Report.
- 2.3.4.2 **Acceptance of Initial Step 1 Report.** If Owner accepts the initial Step 1 Report, as may be amended by Design-Builder, the Contract Price and its basis shall be set forth in this Agreement, and when mutually agreed between the parties, this Agreement will be executed. Once parties have agreed upon the Contract Price and this Agreement, and Owner has issued a Notice to Proceed with Step 2 Services, Design-Builder shall perform the Step 2 Services in accordance with this Agreement.
- 2.3.4.3 **Failure to Accept the Initial Step 1 Report.** If Owner rejects the initial Step 1 Report, or fails to notify Design-Builder in writing on or before the date specified in the initial Step 1 Report that it accepts the Step 1 Report, the initial Step 1 Report shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with the parties having the following options:
 - 1. Owner or Design-Builder may suggest modifications to the initial Step 1 Report, whereupon if such modifications are accepted in writing by the other party, the Step 1 Report shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.4.2 hereof;
 - 2. Owner may terminate negotiations with Design-Builder, provided, however in this event, Design-Builder shall be entitled to the payment provided for in the Letter of Intent for Step 1 Progressive Design-Build Services.
 - 3. Design-Builder may terminate negotiations with Owner, provided however in this event, Design-Builder shall be entitled to the payment provided for in the Letter of Intent for Step 1 Progressive Design-Build Services.
- 2.3.4.4 **Acceptance of Subsequent Phased Step 1 Report(s).** If, after acceptance of the initial Step 1 Report and execution of this Agreement, Owner accepts a subsequent phased Step 1 Report, as may be amended by Design-Builder, the Amended Contract Price and its basis shall be set as an Amendment to this Agreement by means of a Contract Price Amendment. Upon execution of the Contract Price Amendment, Design-Builder shall perform the Step 2 Services for

the Phase in accordance with this Agreement. No further Notice to Proceed is required.

2.3.4.5 Failure to Accept Subsequent Phased Step 1 Report. If Owner rejects a subsequent phased Step 1 Report, or fails to notify Design-Builder in writing on or before the date specified in the phased Step 1 Report that it accepts the Step 1 Report and Contract Price Amendment, the Step 1 Report and Contract Price Amendment shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with the Owner having the following options:

1. Owner may suggest modification to the Step 1 Report and Contract Price Amendment, whereupon if such modifications are accepted in writing by Design-Builder, the Step 1 Report and Contract Price Amendment shall be deemed accepted as modified, and all parties shall proceed in accordance with Section 2.3.4.4 hereof;
2. Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or
3. Owner may terminate this Agreement for convenience in accordance with Article 8 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof.

If Owner fails to exercise any of the above options within thirty (30) calendar days of the date specified for acceptance of the Step 1 Report, Design-Builder shall have the right to (a) continue with the Work as if Owner had elected to proceed in accordance with Section 2.3.4.4 above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work; (b) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof; or (c) may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise any of the options under Section 2.3.4.5 within ten (10) days of receipt of Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Design-Builder under Section 2.3.4.5.3, or if this Agreement is deemed completed under this paragraph, then Design-Builder shall have no further liability or obligations to Owner under this Agreement.

Article 3

Contract Documents

3.1 The Contract Documents are comprised of the following:

- 3.1.1** All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Agreement Between Owner and Design-Builder* (2022 Edition) ("General Conditions of Contract");
- 3.1.2** The initial Step 1 Report, and all attachments, as accepted by the Owner in accordance with Section 2.3.4.2 hereof;

- 3.1.3 Basis of Design Documents;
- 3.1.4 The Contract Price Amendment(s) referenced in Section 2.3.4 herein;
- 3.1.5 This Agreement, including all exhibits, but excluding, if applicable, the Contract Price Amendment(s);
- 3.1.6 The General Conditions of Contract;
- 3.1.7 Construction Documents prepared and approved in accordance with Section 1.4 of the General Conditions of Contract;
- 3.1.8 Exhibit B1a, Scope of Services; and
- 3.1.9 The following other documents, if any:
 - 3.1.9.1 **List any other documents**

Article 4

Interpretation and Intent

- 4.1 Design-Builder and Owner, at the time of acceptance of the initial Step 1 Report by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of this Agreement, or if applicable, prior to Owner's acceptance of the initial Step 1 Report.
- 4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.
 - 4.2.1 In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after Owner's acceptance of the Initial Step 1 Report, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof.
- 4.3 Terms, words, and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.
- 4.4 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 5

Ownership of Work Product

- 5.1 **Work Product.** All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.5 below.
- 5.2 **Owner's Limited License upon Project Completion and Payment in Full to Design-Builder.** Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Indemnified Parties"), and on the Owner's obligation to provide the indemnity set forth in Section 5.5 herein.
- 5.3 **Owner's Limited License upon Owner's Termination for Convenience or Design-Builder's Election to Terminate.** If Owner terminates this Agreement for its convenience as set forth in Article 9 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 5.2 above, conditioned on the following:
- 5.3.1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party, and on the Owner's obligation to provide the indemnity set forth in Section 5.5 herein, and
- 5.3.2 Owner agrees to pay Design-Builder the additional sum of **One Dollar (\$1.00)** as compensation for the right to use the Work Product to complete the Project and subsequently use the Work Product in accordance with Section 5.2 if Owner resumes the Project through its employees, agents, or third parties.
- 5.4 **Owner's Limited License upon Design-Builder's Default.** If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 5.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 5.3 above.
- 5.5 **Owner's Indemnification for Use of Work Product.** Owner recognizes that in the event of an early termination of the Work, whether for convenience or for cause, Design-Builder will not have the opportunity to finish or to finalize its Work Product. Therefore, if Owner uses the Work Product, in whole or in part, or if Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 5, Owner shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of the Work Product, to the fullest extent permitted by applicable law.

Article 6

Contract Time

- 6.1 **Date of Commencement.** The Step 1 Services shall commence within five (5) days of Design-Builder's receipt of Owner's Letter of Intent and Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed for Step 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.
- 6.2 **Substantial Completion and Final Completion.**
- 6.2.1 Substantial Completion of the entire Work shall be achieved no later than _____ () calendar days after the Date of Commencement ("Scheduled Substantial Completion Date"). The parties agree that the definition for Substantial Completion set forth in Section 1.2.19 of the General Conditions of Contract is hereby modified to read as follows:
- "Substantial Completion is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes, provided, however, that Substantial Completion shall be deemed to have been achieved no later than the date of issuance of a Temporary Certificate of Occupancy issued by the local building official."*
- 6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows:
- (Insert any interim milestones ("Scheduled Interim Milestone Dates") for portions of the Work with different scheduled dates for Substantial Completion.)
- 6.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.8 of the General Conditions of Contract.
- 6.2.4 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with any approved Contract Price Amendment and the General Conditions of Contract.
- 6.3 **Time is of the Essence.** Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.
- 6.4 **Liquidated Damages.** Design-Builder and Owner have agreed not to provide for liquidated damages in this Agreement for failure of Design-Builder to achieve the Contract Time(s) set forth in this Article 6. Design-Builder understands, however, that Owner may suffer actual damages in the event the Contract Time(s) set forth herein are not achieved. Owner shall be able to recover damages from Design-Builder to the extent it can demonstrate that said actual damages have been incurred, are directly related and caused by Design-Builder's failure to meet the Contract Time(s) set forth herein, and are not waived by Section 10.5.1 of the General Conditions of Contract. Notwithstanding the foregoing in no event shall Design-Builder's liability for actual damages for delays exceed _____ Dollars (\$).
- 6.5 **Early Completion Bonus.** If Substantial Completion is attained on or before _____ () days before the Scheduled Substantial Completion Date (the "Bonus Date"), Owner shall pay Design-Builder at the time of Final Payment under Section 8.4 hereof an early completion bonus of _____ Dollars (\$) for each day that Substantial Completion is

attained earlier than the Bonus Date. Owner and Design-Builder agree that the maximum aggregate amount that Design-Builder shall receive as the early Completion Bonus is _____ Dollars (\$_____).

- 6.6 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 of the General Conditions of Contract, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price for those events set forth in Section 8.2.1 of the General Conditions of Contract, provided, however, for Force Majeure Events, Design-Builder shall be entitled to an increase in the Contract Price providing that:
- 6.6.1 Said events must exceed sixty (60) cumulative days before Design-Builder is entitled to additional compensation; and
- 6.6.2 Said additional compensation shall be limited to the direct costs and expenses Design-Builder can demonstrate it has reasonably actually incurred as a result of such event.
- 6.7 Owner's Review Time. The parties have established the following maximum and minimum amount of time for Owner to review Design Submissions and the Project Schedule or any updates thereto unless the parties agree in writing otherwise.
- 6.7.1 Owner shall have a minimum of seven (7) days of receipt by Owner to review all Design Submissions, the Project Schedule, and any updates thereto.
- 6.7.2 Owner shall review and (if applicable) provide a response to Design-Builder on all Design Submissions, the Project Schedule, and any updates thereto within fourteen (14) days of receipt by Owner.

Article 7

Contract Price

- 7.1 **Contract Price.**
- 7.1.1 **Step 1 Services.** Owner shall pay Design-Builder in accordance with the Letter of Intent for Step1 Progressive Design-Build Services. Unless otherwise provided in the Letter of Intent, the Phase 1 Services compensation is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.
- 7.1.2 **Step 2 Services.** For Step 2 Services, Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") equal to the Lump Sum amount set forth in Section 7.2 hereof or in the Contract Price Amendment, or equal to the Design-Builder's Fee (as defined in Section 7.4 hereof) plus the Cost of the Work (as defined in Section 7.5 hereof), subject to the GMP established in Section 7.6 hereof or as set forth in the Contract Price Amendment and any adjustments made in accordance with the General Conditions of Contract.
- 7.1.3 For the specific Work set forth below, Owner agrees to pay Design-Builder, as part of the Contract Price, on the following basis: *(This is an optional section intended to provide the parties with flexibility to identify and price limited services.)*

- 7.2 **Lump Sum.** Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of _____ Dollars (\$ _____) ("Contract Price") for the Work for Step 1 and Step 2 Services, subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.
- 7.3 **Markups for Changes.** If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined under Sections 8.4.1.3 or 8.4.1.4 of the General Conditions of Contract, the following markups shall be allowed on such changes:
- 7.3.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of _____ percent (_____ %) of the additional costs incurred for that Change Order, plus any other markups set forth at Exhibit X hereto.
- 7.3.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include no additional reduction to account for Design-Builder's Fee or any other markup
- 7.4 **Design-Builder's Fee.**
- 7.4.1 Design-Builder's Fee shall be: _____ Dollars (\$ _____), as adjusted in accordance with Section 7.4.2 below.
- 7.4.2 Design-Builder's Fee will be adjusted as follows for any changes in the Work:
- 7.4.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of _____ percent (_____ %) of the additional Costs of the Work incurred for that Change Order, plus any other markups set forth at Exhibit X hereto.
- 7.4.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include no additional reduction to account for Design-Builder's Fee or any other markup.
- 7.5 **Cost of the Work.**
- 7.5.1 The term Cost of the Work shall mean costs reasonably incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:
- 7.5.1.1 Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement.
- 7.5.1.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.
- 7.5.1.3 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such

costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

- 7.5.1.4 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.
- 7.5.1.5 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.
- 7.5.1.6 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.
- 7.5.1.7 Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.
- 7.5.1.8 Costs of removal of debris and waste from the Site.
- 7.5.1.9 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.
- 7.5.1.10 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.
- 7.5.1.11 Premiums for insurance in excess of that normally carried by the Design-Builder, and bonds required by this Agreement or the performance of the Work.
- 7.5.1.12 All fuel and utility costs incurred in the performance of the Work.
- 7.5.1.13 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.
- 7.5.1.14 Legal costs, court costs, and costs of mediation and arbitration reasonably arising from Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Builder.
- 7.5.1.15 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.
- 7.5.1.16 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying

legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

- 7.5.1.17 Deposits which are lost, except to the extent caused by Design-Builder's negligence.
- 7.5.1.18 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property.
- 7.5.1.19 Accounting and data processing costs related to the Work.
- 7.5.1.20 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.
- 7.5.1.21 Owner and Design-Builder agree that an escrow account in the amount of _____ Dollars (\$) shall be established prior to Final Completion, which escrow shall be used to reimburse Design-Builder for the Costs of the Work incurred after Final Completion to perform warranty Work. The escrow agreement will provide that any sums not used at the expiration of the warranty period shall be returned to Owner, subject to any savings Design-Builder may be entitled to under this Agreement. In the event the warranty escrow account is exhausted, but funds remain under the GMP, Owner shall be obligated to pay Design-Builder the Costs of the Work incurred after Final Completion to perform warranty Work up to the GMP.

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work:

- 7.5.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.
- 7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.
- 7.5.2.3 The cost of Design-Builder's capital used in the performance of the Work.
- 7.5.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

7.6 The Guaranteed Maximum Price.

- 7.6.1 Design-Builder guarantees that it shall not exceed the GMP of _____ Dollars (\$ _____). Documents used as a basis for the GMP shall be identified in the most current Contract Price Amendment to this Agreement. Design-Builder does not guarantee any specific line item provided as part of the GMP and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Builder agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents. *(While the Contract Price Amendment will be developed in advance or concurrently with the execution of this Agreement, it is recommended that such exhibit include the items set forth in Section 2 above, to ensure that the basis for the GMP is well understood).*
- 7.6.2 The GMP includes a Contingency in the amount of _____ Dollars (\$) which is available for Design-Builder's exclusive use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d)

correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price.

7.6.2.1 The Contingency is not available to Owner for any reason, including changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents.

7.6.2.2 Design-Builder shall provide Owner notice of all anticipated charges against the Contingency, and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months.

7.6.2.3 Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

7.6.3 Savings.

7.6.3.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 7.1.3 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:

[Choose one of the following.]

☐ _____ percent (____%) to Design-Builder and
_____ percent (____%) to Owner.

or

☐ The first _____ Dollars (\$ _____) of Savings shall be provided to (choose either Design-Builder or Owner) _____, with the balance of Savings, if any, shared _____ percent (____%) to Design-Builder and _____ percent (____%) to Owner.

7.6.3.2 Savings shall be calculated and paid as part of Final Payment under Section 7.4 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the most current Contract Price Amendment.

7.7.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to

develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

- 7.7.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.
- 7.7.4 The Allowance Value includes the direct cost of labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and Fee, are deemed to be included in the original Contract Price, and are not subject to adjustment notwithstanding the actual amount of the Allowance Item.
- 7.7.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 7.7.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

7.8 Performance Incentives.

- 7.8.1 Owner and Design-Builder have agreed to the performance incentive arrangements set forth in Exhibit _____.

(The parties are encouraged to discuss and agree upon performance incentives that will influence project success. These incentives may consist of Award Fees, incentives for safety, personnel retention, client satisfaction, and similar items.)

Article 8

Procedure for Payment

- 8.1 **Payment for Step 1 Services.** Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services hereunder:

- 8.1.1 Design-Builder shall submit to Owner on the 25th day of each month, beginning with the first month after date of Notice to Proceed with Step 1 Services, Design-Builder's Application for Payment in accordance with the percentage of completion of Step 1 Services.
- 8.1.2 After Owner's receipt of each properly submitted and accurate Application for Payment, Owner shall make payment in accordance with Owner's standard monthly claims cycle and payment procedures.
- 8.1.3 Payment of Design-Builder's final Application for Payment for Step 1 Services shall not be paid until:
 - 8.1.3.1 Owner accepts Design-Builder's Step 1 Report in accordance with Section 2.3.2.2 above; or
 - 8.1.3.2 Owner rejects Design-Builder's Step 1 Report and terminates negotiations in accordance with Section 2.3.2.3 above, or Design-Builder terminates negotiations in accordance with Section 2.3.2.4 above.

8.2 **Step 2: Contract Price Progress Payments.**

8.2.1 Design-Builder shall submit to Owner on the 25th day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

8.2.1.1 The Step 2 Application for Payment shall include a single line item on the Schedule of Values for Step 1 Services, and indicate any previous payments made or earned amounts outstanding to be paid.

8.2.2 After Owner's receipt of each properly submitted and accurate Application for Payment, Owner shall make payment in accordance with Owner's standard monthly claims payment procedures, and in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

8.2.3 If Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

8.3 **Retainage on Progress Payments.**

8.3.1 Owner will retain ten percent (10%) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Builder's subsequent Applications for Payment.

8.3.1.1 Owner will also reasonably consider reducing retainage for Work completed early in the Project.

8.3.1.2 There is no retainage on Step 1 Services or Design Services

8.3.2 Within thirty (30) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) 200% of the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

8.3.3 If a warranty reserve has been established pursuant to Section 7.5.1.21 above, Owner shall at the time of Substantial Completion retain the agreed-upon amounts and establish an escrow account as contemplated by Section 7.5.1.21 above.

8.4 **Final Payment.** Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

8.5 **Interest.** Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing sixty (60) days after payment is due at the annual rate two points over local prime rate until paid.

8.6 **Record Keeping and Finance Controls.** Design-Builder acknowledges that this Agreement is to be administered on an “open book” arrangement relative to Costs of the Work, regardless of how Contract Price is determined.

8.6.1 Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents.

8.6.2 During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner’s accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder’s records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment.

8.6.3 Such inspection shall take place at Design-Builder’s offices during normal business hours unless another location and time is agreed to by the parties.

8.6.4 Any multipliers or markups agreed to by Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit.

8.6.5 Any lump sum agreed to by Owner and Design-Builder as part of this Agreement is not subject to audit once the last Contract Price Amendment has been executed.

Article 9

Termination for Convenience

9.1 If Design-Builder is terminated for convenience pursuant to Section 11.6 of the General Conditions, and the parties have agreed to a payment to Design-Builder in the case of such termination of convenience, Owner shall pay Design-Builder for the following in addition to the amount set forth in Section 11.6.1 of the General Conditions:

9.1.1 Overhead and profit in the amount of _____ percent (_____ %) on the sum of items set forth in Section 11.6.1 of the General Conditions.

9.2 In addition to the amounts set forth in Section 9.1 above and Section 11.6.1 of the General Conditions, Design-Builder shall be entitled to receive one of the following if the parties agree to an additional payment:

9.2.1 If Owner terminates this Agreement prior to the submittal of the Step 1 Report, Design-Builder shall be paid the amount earned per Section 8.1.1 as of the Date of Notice of Termination.

9.2.2 If Owner terminates this Agreement after submittal of Step 1 Report, and prior to Owner’s approval of Step 1 Report, the provisions of Section 2.3.2 apply.

9.2.3 If Owner terminates this Agreement prior to commencement of construction, and after approval of the Step 1 Report, Design-Builder shall be paid _____ percent (_____ %) of the remaining balance of the Contract Price or, if a GMP has not been established, the remaining balance of the most recent estimated Contract Price.

- 9.2.4 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid **percent (%)** of the remaining balance of the Contract Price or, if a GMP has not been established, the remaining balance of the most recent estimated Contract Price.

Article 10

Representatives of the Parties

10.1 Owner's Representatives.

- 10.1.1 Owner designates the individual listed below as its Senior Representative ("Owner's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: (Identify individual's name, title, address, and telephone numbers.)

Name
Title

- 10.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: (Identify individual's name, title, address, and telephone numbers.)

Name
Title

10.2 Design-Builder's Representatives.

- 10.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: (Identify individual's name, title, address, and telephone numbers.)

- 10.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: (Identify individual's name, title, address, and telephone numbers.)

Article 11

Bonds and Insurance

- 11.1 **Insurance.** Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.
- 11.2 **Bonds and Other Performance Security.** Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

(Check one box only. If no box is checked, then no bond is required.)

☒ Required

☐ Not Required

Payment Bond.

[Check one box only. If no box is checked, then no bond is required.]

☒ Required

☐ Not Required

Other Performance Security.

[Check one box only. If no box is checked, then no other performance security is required. If the "Required" box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.]

☐ Required

☒ Not Required

Article 12

Other Provisions

12.1 **Other Provisions.** Other provisions, if any, are as follows:

12.1.1 **Antidiscrimination Provisions:** As required by Indiana Code Section 5-16-6, as amended; Design-Builder agrees;

12.1.1.1 That in the hiring of employees for the performance of Work under this Contract, or any consultant or subcontractor hereunder, no contractor or consultant or subcontractor, nor any person acting on behalf of such contractor, consultant or subcontractor, shall, by reason of race, religion, color, sex, veteran status, national origin or ancestry, discriminate against any citizen of the State of Indiana who is qualified to, and available to perform the Work to which the employment relates;

12.1.1.2 That no contractor, consultant, subcontractor, or any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of the Work under this Contract on account of race, religion, color, sex, veteran status, national origin or ancestry;

12.1.1.3 That the Design-Builder and all of its consultants and subcontractors shall adhere to the Owner's non-discrimination policies;

12.1.1.4 That there may be deducted from the amount payable to the Design-Builder by Owner a penalty of five (\$5.00) dollars for each individual for each calendar day during which such individual was discriminated against or intimidated in violation of the provisions of this Contract; and

12.1.1.5 That this Contract may be cancelled or terminated by Owner for cause, and all money due or to become due hereunder may be forfeited for a second or any subsequent violation of the terms and conditions of this Section of the Contract.

12.1.2 **E-Verify Provisions**

12.1.2.1 As required by Indiana Code Section 22-5-1.7, as amended; Design-Builder will enroll in and verify the work eligibility status of all newly hired employees through the federal E-Verify program for as long as the program remains in existence.

12.1.2.2 Design-Builder will sign the Owner's E-Verify affidavit to this effect, as well as certify that the Design-Builder does not knowingly employ an unauthorized alien.

- 12.1.3 **Investment Activity:** Pursuant to Indiana Code Section 5-22-16.5, Design-Builder certifies that Design-Builder is not engaged in investment activities in Iran.
- 12.1.4 **Standard of Care**
- 12.1.4.1 Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards.
- 12.1.5 **Final Resolution of Claims**
- 12.1.5.1 Any claims, disputes, or controversies between the parties arising out of or related to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 of the General Conditions of Contract shall be resolved in a court of competent jurisdiction in White County, Indiana.
- 12.2 Listing of Exhibits and documents incorporated herein:
- Exhibit A – Basis of Design Documents (at the time of authorization for Step 2 Services)
 - Exhibit B1b – Scope of Services
 - Exhibit B1c – Insurance Exhibit
 - Exhibit C – Design-Builder's approved Step 1 Report (at the time of authorization for Step 2 Services)
 - Permits Exhibit (at the time of authorization for Step 2 Services)
 - DBIA Document No. 535, Standard Form of General Conditions of Contract Between Owner and Design-Builder (2022 Edition) ("General Conditions of Contract")
 - Contract Price Amendment, if any.

Article 13

Limitation of Liability

- 13.1 **Limitation.** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Design-Builder, its Design Consultants, and Subcontractors, surety (if any) and their respective officers, directors, employees, and agents, and any of them, to Owner and anyone claiming by, through, or under Owner, for any and all claims, losses, liabilities, costs, or damages whatsoever arising out of, resulting from, or in any way related to, the Project or this Agreement from any cause, including but not limited to the negligence, indemnity, professional errors or omissions, strict liability, breach of contract, or warranty (express or implied) shall not exceed _____percent (____%) of the Contract Price. The parties agree that specific consideration has been given by Design-Builder for this limitation and that it is deemed adequate.

In executing this Agreement, Owner and Design-Build each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

North White School Corporation

(Name of Owner)

(Signature)

(Printed Name)

School Board President

(Title)

(Signature)

(Printed Name)

School Board Secretary

(Title)

Date: _____

DESIGN-BUILDER:

(Name of Design-Builder)

(Signature)

(Printed Name)

(Title)

Date: _____

Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.

Standard Form of General Conditions of Contract Between Owner and Design-Builder

Document No. 535

Third Edition, 2022

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Washington, D.C.



SAMPLE

TABLE OF CONTENTS

Article	Name	Page
Article 1	General	1
Article 2	Design-Builder's Services and Responsibilities	3
Article 3	Owner's Services and Responsibilities	7
Article 4	Hazardous Conditions and Differing Site Conditions	9
Article 5	Insurance and Bonds	10
Article 6	Payment	12
Article 7	Indemnification	14
Article 8	Time	16
Article 9	Changes to the Contract Price and Time	17
Article 10	Contract Adjustments and Disputes	18
Article 11	Stop Work and Termination	20
Article 12	Electronic Data	23
Article 13	Miscellaneous	24

Article 1

General

1.1 Mutual Obligations.

1.1.1 *Owner and Design-Builder* commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions.

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under DBIA Document No. 544, *Standard Form of Progressive Design-Build Agreement* (2022 Edition) as amended for Indiana Public Works Projects per Indiana Code Section 5-30.

1.2.2 *Basis of Design Documents* are as follows:

- 1.2.2.1** Owner's written acceptance of Design-Builder's Step 1 Report and Notice to Proceed with Step 2 Progressive Design-Build Services, dated [insert date];
- 1.2.2.2** Design-Builder's Step 1 Report, dated [insert date], including all attachments;
- 1.2.2.3** Owner's Letter of Intent and Notice to Proceed with Step 1 Progressive Design-Build Services, dated [insert date];
- 1.2.2.4** Design-Builder's Proposal and Verified Statement of Qualifications dated May 24, 2024; and
- 1.2.2.5** Owner's Combined Request for Qualifications and Request for Proposal (RFQ-RFP) dated April 24, 2024.

1.2.3 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.4 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.5 *Design-Build Team* is comprised of Design-Builder, Design Consultant, and key Subcontractors identified by Design-Builder.

1.2.6 *Design Consultant* is a qualified design professional, licensed to provide professional services in the State of Indiana, who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of Design Consultant but is retained by Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

1.2.7 *Design Submission* means any and all documents, shop drawings, electronic information, including computer programs and computer generated materials, data, plans, drawings, sketches, illustrations, specifications, descriptions, models, and other information developed, prepared, furnished, delivered or required to be delivered by, or for, Design-Builder.

1.2.8 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

1.2.9 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.10 *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2022 Edition).

1.2.11 *GMP Exhibit* means that exhibit attached to DBIA Document No. 530, *Standard Form of Agreement Between Owner and Design-Builder – Cost Plus Fee With an Option for a Guaranteed Maximum Price*, which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

1.2.12 *GMP Proposal* or *Proposal* means that proposal developed by Design-Builder in accordance with Section 3.3 of DBIA Document No. 544, *Progressive Design-Build Agreement*.

1.2.13 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.14 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.15 *Owner's Project Criteria* are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

1.2.16 *Site* is the land or premises on which the Project is located.

1.2.17 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.18 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.19 *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

1.2.20 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Unless the parties agree on a different time period for submission of a status report, Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule; (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution; (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the *Standard Form of Agreement Between Owner and Design-Builder*, and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s). Status reports shall be submitted with Design-Builder's draft Payment Applications as a pre-requisite to payment.

2.1.3 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences, and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.1.5 Design-Builder represents and warrants the following to Owner, in addition to the other representations and warranties contained in the Contract Documents, as an inducement to Owner to execute the Agreement, which representations and warranties shall survive Final Completion of the Work:

- 2.1.5.1** That Design-Builder is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents
- 2.1.5.2** That Design-Builder is able to furnish the plant, tools, materials, supplies, equipment, and labor required to complete the Work and perform its obligations hereunder, and has sufficient experience and competence to do so.
- 2.1.5.3** That Design-Builder is authorized to do business in the state of Indiana and is properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over the Work and the Site of the Project.

Subconsultant, including but not limited to any third-party beneficiary rights.

2.3 Standard of Care for Design Professional Services.

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the applicable profession practicing under similar conditions at the same time and locality of the Project.

2.4 Step 1 Progressive Design-Build Services

2.4.1 Design-Builder shall provide Step 1 Progressive Design-Build Services as enumerated in Exhibit B attached to the Agreement between Owner and Design-Builder identified in Section 1.2.1 herein.

2.5 Step 2 Progressive Design-Build Services – Design Development Services after Owner's approval of Step 1 Report.

2.5.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim Design Submissions that Owner may wish to review, which interim Design Submissions may include design criteria, drawings, diagrams, and specifications setting forth the Project requirements.

2.5.1.1 Design Submissions shall be consistent with the Owner's Project Criteria as well as the Basis of Design Documents, as the Basis of Design Documents may have been changed or supplemented through the design process set forth in Section 2.4.1. By submitting Design Submissions, Design-Builder represents to the Owner that the Work depicted and otherwise shown, contained, or reflected in Design Submissions may be constructed in compliance with the then current Contract Price and Contract Time. Notwithstanding the above, Design-Builder may propose Design Submissions that may alter the Basis of Design Documents, the Contract Price and/or Contract Time; however, Design-Builder must provide notice thereof in accordance with Article 10 of the General Conditions and obtain a Change Order before such proposed Design Submissions are incorporated into the Construction Documents.

2.5.1.2 On or about the time of the Design Submissions, Design-Builder and Owner shall meet and confer about the Design Submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted Design Submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim Design Submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.5.1.3 Owner shall review and respond to Design Submissions, providing any comments and/or concerns about the Design Submissions. Owner shall provide all comments on the Design Submissions within the time provided by the Contract Documents. Design-Builder shall revise the Design Submissions (and any other deliverables) in response to Owner's comments and incorporate said responses into the next submission of Design Submissions.

2.5.1.4 If incorporation of Owner's comments results in a design that is inconsistent with or otherwise gives rise to a change in Owner's Project Criteria, the Basis of Design Documents, the Contract Price and/or the Contract Time, Design-Builder shall provide notice thereof in accordance with Articles 9 and 10 of the General Conditions. Changes to

the Basis of Design Documents, the Contract Price and/or the Contract Time, including those that are deemed minor changes, shall be processed in accordance with Article 9 of the General Conditions.

2.5.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim Design Submissions, as such submissions may have been modified in a design review meeting and recorded in the meeting minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.5.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.5.3 Owner's review and approval of interim Design Submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim Design Submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner, nor shall it relieve the Design-Builder from compliance with Basis of Design Documents and the approved Step 1 Report. Design-Builder shall provide Owner with sufficient time in the Project Schedule to review and approve the Design Submissions.

2.5.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim Design Submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.6 Legal Requirements.

2.6.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.2.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.7 Government Approvals and Permits.

2.7.1 Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.7.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.8 Design-Builder's Construction Phase Services.

2.8.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project

consistent with the Contract Documents.

2.8.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill, and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences, and techniques of construction.

2.8.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Prior to the date that Subcontractors perform Work on the Project, Design-Builder shall identify in writing to Owner all Subcontractors. To the extent that Design-Builder has not selected a Subcontractor prior to performing the Work, Design-Builder shall provide Owner in writing a list of any subsequently added Subcontractors prior to their performing Work on the Project. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance. Design-Builder may not substitute listed Subcontractors without Owner's prior written consent; such consent shall not be unreasonably withheld.

2.8.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.8.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.8.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery, and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.8.7 As required by Indiana Code Section 5-16-8-2, as amended, Design-Builder shall use only steel and foundry products made in the United States in the performance of the Work unless Owner has determined, in writing, that the cost of domestic steel or foundry products is considered to be unreasonable.

2.8.7.1 For the purposes of this Section, the price of steel or foundry products of domestic origin will not be considered unreasonable if the price does not exceed the sum of the offered price of like steel or foundry products of foreign origin (including all applicable duty) plus a differential of 15% more than the offered price of steel or foundry products of foreign origin.

2.8.8 No asbestos containing material may be used as a building material for the Work. For all materials used for the Work which were marked on the material or packaging with the following or similar wording; "*May contain mineral fibers*," Design-Builder shall provide to Owner either the manufacturer's certification that the material does not contain asbestos, or a laboratory report from an EPA accredited laboratory indicating that the material does not contain asbestos in accordance with EPA and OSHA requirements.

2.8.9 Pumping, draining and control of surface and groundwater shall be carried out so as to

avoid endangering any adjacent facility or property, or interrupting, restricting or otherwise infringing, or interfering with the use thereof. All such work shall be performed in compliance with state and federal regulations and any other authority applicable to the site with respect to surface and groundwater and shall be at no additional cost to Owner. The discharge of any substance other than storm water into any storm drain, inlet, creek, or ditch, including street gutters and curb inlets is strictly prohibited. Design-Builder shall pay Owner for all costs Owner incurs based upon Design-Builder's noncompliance with this provision, including, but not limited to repair or remediation costs, fines or penalties imposed on Owner by any regulating authority and attorneys' fees arising out of a prohibited discharge.

2.8.10 Neither Design-Builder nor any entity for whom Design-Builder is responsible shall erect any sign on the Site without Owner's prior written consent. Such consent may be withheld in Owner's sole discretion.

2.8.11 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to Owner, or with the appropriate public authority. Design-Builder shall bear all related costs of tests, inspections, and approvals. If such procedures for testing, inspections or approval reveal failure of portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures shall be at Design-Builder's expense. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by Design-Builder, and promptly delivered to Owner. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

2.9 Design-Builder's Responsibility for Project Safety.

2.9.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting; (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site; and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work, for the benefit of the Owner. In addition, Design-Builder agrees solely for the benefit of Owner to monitor safety precautions and safety programs established by Subcontractors. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Design-Builder may utilize its own staff and/or subcontract all or a portion of this responsibility to monitor and coordinate safety precautions on the Project.

2.9.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage, or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.9.3 Any duty or obligation of safety by Design-Builder is owed solely to Owner and governmental authorities, and any safety programs, policies, or measures provided by Design-Builder are solely for the benefit of Owner and governmental authorities. Design-Builder does not owe any additional safety duty or obligation to any of its Subcontractors or their employees, sub-subcontractors, suppliers, or any other individual at the Project Site. Design-Builder's responsibility for safety under this Section 2.9 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying

with all Legal Requirements, including those related to health and safety matters; and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.9.4 The provisions of Indiana Code Section 36-1-12-20 and IOSHA regulations 29CFR 1926, Subpart P, relating to trench safety systems are incorporated herein by this reference.

2.10 Design-Builder's Warranty.

2.10.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.10 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.11 Correction of Defective Work.

2.11.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.10 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

2.11.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

2.11.3 The one-year period referenced in Section 2.11.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations, and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of interim Design Submissions and

Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.1.3 Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

3.2 Furnishing of Services and Information.

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

3.2.1.1 Surveys describing the property, boundaries, topography, and reference points for use during construction, including existing service and utility lines;

3.2.1.2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

3.2.1.3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

3.2.1.4 A legal description of the Site;

3.2.1.5 To the extent available, record drawings of any existing structures at the Site; and

3.2.1.6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information.

3.3.1 At Design-Builder's written request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative.

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any

errors, omissions, or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

3.5 Government Approvals and Permits.

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in Owner's Permit List attached as an exhibit to the Agreement.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors.

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with and coordinate their activities so as not to interfere with Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless; and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including reasonable attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at

the Site.

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors, or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend, and hold harmless Owner and Owner's officers, directors, employees, and agents from and against all claims, losses, damages, liabilities, and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions.

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work, are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements.

5.1.1 Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state of Indiana, and with a minimum rating set forth in the Agreement.

5.1.2 Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.3 Any professional liability insurance coverage shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project. Such policies shall be provided to Owner prior to the commencement of any design services hereunder.

5.1.4 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents; and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days' prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment is reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by Design-Builder with reasonable promptness according to Design-Builder's information and belief.

5.2 Owner's Liability Insurance.

5.2.1 Owner shall procure and maintain from insurance companies authorized to do business in Indiana such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project. Owner shall be entitled to elect to utilize an owner-controlled insurance program ("OCIP") with respect to Owner and Design-Builder's insurance requirements contained herein. The parties shall work in good faith to accomplish implementation of such an OCIP, if the program is so elected by Owner.

5.3 Owner's Property Insurance.

5.3.1 Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in Indiana property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. Design-Builder is responsible for the payment of deductibles under the insurance required by this Section 5.3.1, should Design-Builder request a claim be made, otherwise, Owner is responsible for payment of any other deductibles under the insurance required by this Section 5.3.1.

5.3.2 Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner; and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days' prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

5.3.3 Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents, and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

5.4 Bonds and Other Performance Security.

5.4.1 Owner requires Design-Builder to obtain performance and labor and material payment bonds, as set forth in the Agreement.

5.4.2 All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state of Indiana.

5.5 Notwithstanding anything to the contrary in the Agreement, no agreement or provision contained herein to procure or provide insurance shall be deemed or construed to constitute a waiver of liability, an agreement to exculpate a party from the consequences of its own negligence, or limit Owner's recourse to the proceeds of such insurance, and the operation of Morsches Lumber v. Probst, 388 N.E. 2nd 284 (Ind. Ct. App.1979) is hereby not applicable to the Agreement.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 As provided in the Agreement, as part of Step 1 Progressive Design- Build Services, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts; (ii) include values for all items comprising the Work; (iii) identify line items for Step 1 Services, Fees, Subconsultants, General Conditions, Allowances, and Contingencies, and (iv) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

6.1.2 As required by Indiana Code Section 36-1-12-20(c), as amended, the requirements of which are incorporated by reference under Section 2.9.4 hereof, the cost for trench safety systems, if any, shall be paid for as a separate pay item in the Schedule of Values of the principal Work with which safety systems are associated.

6.1.3 Owner will timely review and approve the schedule of values so as not to delay the submission of Design-Builder's first application for payment. Owner and Design-Builder shall timely resolve any differences so as not to delay Design-Builder's submission of its first application for payment.

6.2 Monthly Progress Payments.

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents.

6.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location; (ii) the equipment and materials are protected by suitable insurance; and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 All discounts offered by Subcontractors, Sub-Subcontractors, and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

6.2.4 The Application for Payment shall constitute Design-Builder's representation that the Work described therein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.2.5 Funds retained by Owner, as specified in the Agreement, shall be placed in an escrow account with a bank, savings and loan institution or the State of Indiana, as the escrow agent. The escrow agent shall be selected by mutual agreement between Owner and Design-Builder under a written agreement. The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent. The escrow agent shall hold the escrowed principal and income until receipt of notice from Owner and Design-Builder, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice. The escrow agent shall be compensated for the agent's services. Owner and Design-Builder shall agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

6.2.6 Owner shall have no obligation to pay or see to the payment of money to any Subcontractor except as may otherwise be required by law. Notwithstanding anything in the Contract Documents to the contrary, Owner, in its sole discretion, may elect to make any payment requested by Design-Builder on behalf of a Subcontractor or Supplier of any tier jointly payable to Design-Builder and such person or entity. Design-Builder and such Subcontractor or Supplier shall be responsible for the allocation and disbursement of any such joint payment. In no event shall any joint payment be construed to create (i) any contractual relationship between Owner and such Subcontractor or Supplier of any tier, (ii) any obligations from Owner to such Subcontractor or Supplier, or (iii) any rights in such Subcontractor or Supplier against Owner.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Owner may withhold payment in whole or in part, or because of subsequently discovered evidence or subsequent observations, may nullify the whole or part of a payment previously issued, to such extent as may be necessary in Owner's opinion to protect Owner from loss for which Design-Builder is responsible, because of:

6.3.2.1 Defective Work not remedied;

6.3.2.2 Third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to Owner is provided by Design-Builder;

6.3.2.3 Failure of Design-Builder to make payments properly to Subcontractors or for labor, materials, or equipment;

6.3.2.4 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;

6.3.2.5 Damage to Owner or a separate contractor;

6.3.2.6 Reasonable evidence that the Work will not be completed within the Contract Time(s), and that the unpaid balance would not be adequate to cover actual damages for the anticipated delay; or

6.3.2.7 Failure to carry out the Work in accordance with the Contract Documents or Legal Requirements.

6.3.3 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement. Owner shall not be deemed to be in default of the Agreement by reason of withholding payment while any of the grounds set forth in this Section 6.3 remain uncured.

6.4 Right to Stop Work and Interest.

6.4.1 If Owner fails to pay timely Design-Builder any undisputed amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.5.2 Design-Builder and each of its Design Consultants, Subcontractors, employees, agents and assigns acknowledge that all properties at which the Work will occur are public properties not subject to mechanics liens under Indiana law.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof; (ii) the remaining items of Work that have to be completed before final payment; (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities, and insurance pending final payment; and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to 200% of the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been

issued for the portion of Work addressing the items set forth in Section 6.6.1 above; (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project; and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not unreasonably interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 An affidavit that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, material, equipment, taxes, or other items performed, furnished, or incurred for or in connection with the Work which will in any way affect Owner's interests;

6.7.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

6.7.2.3 Consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 All operating manuals, warranties and other deliverables required by the Contract Documents; and

6.7.2.5 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.2.6 Record Documents, including a record copy of the Project Website.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests; (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion; and (iii) the terms of any special warranties required by the Contract Documents.

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the punch list if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.10 and 2.11 herein and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

6.7.5 Final Payment is further subject to the provisions of Indiana Code Section 36-1-12-14(f), which are incorporated herein by reference, regarding final payment, payment by the escrow agent, and withholding for uncompleted minor items.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information, and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright; or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner; or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement or violation of any patent or copyright.

7.2 Taxes.

7.2.1 Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

7.2.2 Materials and equipment purchased as part of the Work that become a permanent part of the structure or facility being constructed are not subject to state gross retail or use tax, and the Contract Price and the amount of any Change Orders shall not include such tax. The amount of any tax paid by Design-Builder, other than the foregoing, shall be separately itemized on Design-Builder's Applications for Payment, and Owner will have the right to contest such amounts. An exemption certificate will be furnished by Owner upon request and must be filed with vendors by Design-Builder for exemption from payment of the tax on exempt material and equipment purchased.

7.2.3 Owner is required by statute to withhold certain taxes, including the Indiana Gross Income Tax, from all payments made to non-resident contractors who are corporations and to remit such tax quarterly to the Indiana Department of Revenue. A "non-resident contractor" or foreign corporation which is registered with the Indiana Secretary of State to do business in the State of Indiana shall be exempt from this withholding.

7.3 Payment Claim Indemnification.

7.3.1 Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend, and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.3.2 Pursuant to Indiana law, no mechanic's lien(s) may be recorded against any project or property owned by Owner.

7.4 Design-Builder's General Indemnification.

7.4.1 Except as set forth in Section 7.4.2 below, Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for non-party bodily injury, sickness or death and non-party property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.2 For indemnity obligations that arise from professional errors and omissions, Design-Builder, to the fullest extent permitted by law, shall indemnify Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for non-party bodily injury, sickness, or death and non-party property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.3 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligations set forth in Sections 7.4.1 and 7.4.2 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

7.4.4 Design-Builder's indemnity obligations under this Section 7.4 specifically include, without limitation, all fines, penalties, damages, liability, cost, expenses (including without limitation attorneys' fees and expenses), and punitive damages, if any, rising out of, or in connection with any (i) violation or failure to comply with any law statute, ordinance, rule, regulation, code or requirement of a public authority that bears upon the performance of the Work by the Design-Builder, its Subcontractors, Consultants or any person or entity for whom the Design-Builder is responsible, (ii) means, methods, procedures, techniques, or sequences of execution or performance of the Work, and (iii) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work by Design-Builder, its Subcontractors, Consultants or any person or entity for whom the Design-Builder is responsible.

7.4.5 The provision of Section 7.4 shall survive the completion or termination of the Agreement.

7.5 Owner's General Indemnification.

7.5.1 Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Owner, Owner's separate contractors or anyone for whose acts any of them may be liable.

7.6 Limited Recourse.

7.6.1 None of the obligations set forth in this Agreement (on behalf of any party) constitute personal obligations of any natural persons who are the officers, shareholders, members, partners, employees, or agents of any party unless the natural person is expressly identified as a contracting party. All Parties to this Agreement shall not seek recourse against any natural person described herein. This provision, however, shall not protect such natural persons from liability for willful misconduct, illegal acts, or intentional violation of any duty of corporate loyalty.

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 6 of the Agreement.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed on the critical path in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events. In the event of a claim by Design-Builder for extension of time, Design-Builder shall present evidence reasonably necessary to substantiate the delay incurred by Design-Builder.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders.

9.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

9.1.1.1 The scope of the change in the Work;

9.1.1.2 The amount of the adjustment to the Contract Price; and

9.1.1.3 The extent of the adjustment to the Contract Time(s).

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.1.4 No course of conduct or dealing between the parties, no expressed or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by an alteration or addition to the Work, whether or not there is any unjust enrichment to the Work, shall be the basis of any claim for an increase in the Contract Price or for a change in the Contract Time(s) in the absence of a Change Order or Work Change Directive.

9.1.5 Execution of a Change Order or Work Change Directive constitutes a final settlement of all matters included in the scope of the proposed change, including, but not limited to, all costs of any kind whatsoever associated with such change and all adjustments to the Contract Price, the Contract Time(s) and the construction schedule.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work.

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance, and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments.

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

9.4.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

9.4.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

9.4.1.3 Costs, fees and any other markups set forth in the Agreement; or

9.4.1.4 If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed; and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services; and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury, or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief.

10.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed ten (10) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. The claimant shall provide more complete information with respect to the claim within fourteen (14) days of the initial notice. The more complete information shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

10.2 Dispute Avoidance and Resolution.

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless Owner and Design-Builder mutually agree otherwise.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by Owner and Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation. Representatives of the parties with authority to resolve the dispute shall be present at any mediation.

10.2.5 Any mediation or litigation relating to the Agreement shall be held in White County, Indiana and subject to the jurisdiction of state courts located in White County, Indiana.

10.3 Attorney's Fees.

10.3.1 Each party shall bear its own expenses for legal counsel consulted in connection with or utilized in any dispute resolution proceeding other than litigation in court. The prevailing party in any litigation that results in a judgment shall be entitled to recover from the other party reasonable attorney's fees and expenses incurred by the prevailing party for the work required to file suit and work performed thereafter in connection with the litigation, but not for expenses incurred in the unsuccessful dispute resolution proceedings preceding the initiation of litigation. For the purposes of this paragraph, "prevailing party" shall mean the party that receives all or substantially all of the relief sought by the party in the dispute.

10.3.2 Wherever the Contract Documents entitle Owner to recover its attorneys' fees the term "attorneys' fees" shall include, without limitation, the following related expenses paid or incurred by Owner: (1) attorneys' fees; (ii) paralegal fees; (iii) documentary evidence and expert witness costs; (iv) court reporter charges; (v) filing fees, recording fees, copying charges and the like; and (vi) travel, lodging and meal expense.

10.4 Duty to Continue Performance.

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations for undisputed amounts to Design-Builder as well as any further amounts pursuant to Section 9.4.3, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES.

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

Article 11

Stop Work and Termination

11.1 Owner's Right to Stop Work.

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner not due to the fault of Design-Builder or its employees, agents or subcontractors.

11.2 Owner's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs, and expense, including attorneys' fees and expenses, incurred by Owner in connection with the repurchase and defense of claims arising from Design-Builder's default.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Section 11.6 hereof and Section 9 of the Agreement.

11.3 Design-Builder's Right to Stop Work.

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

11.3.1.1 Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

11.3.1.2 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. Design-Builder shall not stop work unless it provides such written notice and Owner has failed to cure the reason

for default within the seven (7) day cure period. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been materially and adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

11.4.1.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

11.4.1.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

11.4.1.3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 9 of the Agreement.

11.5 Bankruptcy of Design-Builder.

11.5.1 If Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code, such event may impair or frustrate the Design-Builder's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

11.5.1.1 Design-Builder, its trustee or other successor, shall furnish, upon request of Owner, adequate assurance of the ability of the Design-Builder to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

11.5.1.2 Design-Builder shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If Design-Builder fails to comply with its foregoing obligations, Owner shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to Owner under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of Owner to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code.

11.6 Termination for Convenience.

11.6.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

11.6.1.1 All Work executed and for proven loss, cost or expense in connection with the Work;

11.6.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

11.6.1.3 The amount set forth in Article 9 of the Agreement.

11.6.2 If Owner terminates this Agreement pursuant to Section 11.6.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 5.3 of the Agreement. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 5 of the Agreement.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications, and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be

deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information.

13.1.1 Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project, subject, however, to the limitations provided in the Indiana Access to Public Records Act at I.C. 5-14-3

13.2 Assignment.

13.2.1 Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

13.3 Successorship.

13.3.1 Design-Builder and Owner intend that the provisions of the Contract Documents are

binding upon the parties, their employees, agents, heirs, successors and assigns.

13.4 Governing Law.

13.4.1 The Agreement and all Contract Documents shall be governed by the laws of the state of Indiana, without giving effect to its conflict of law principles.

13.5 Severability.

13.5.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver.

13.6.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings.

13.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice.

13.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice; (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement; (iii) if transmitted by facsimile, by the time stated in a machine-generated confirmation that notice was received at the facsimile number of the intended recipient; or (iv) by electronic mail, by the time frame stated in the email-generated confirmation that notice was received by the email of the intended recipient.

13.9 Amendments.

13.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

North White School Corporation
2024 Culinary Arts Program Project
RFQ/RFP Attachment D
PRICE PROPOSAL FORM

Design-Builder: [Insert Design-Build Entity's Name]

Submit an original, signed document of this Price Proposal Form in a separate, sealed envelope clearly marked as "Price Proposal for 2024 North White School Corporation Culinary Arts Program Project" by [insert Design-Build Entity's Name] and attach it to the Design-Build Entity's Original Qualitative Proposal by the date and time set forth for receipt of Proposals in the RFQ/RFP and all Addenda.

PRICE PROPOSAL

As fulfillment of requirements to provide a Price Proposal per IC 5-30-6-5 and to calculate the Adjusted Price Score required by IC 5-30-7-5, the Design-Builder identified above states the following as its Price Proposal: (Choose One)

- ☐ Design-Builder affirms it **can** complete the project substantially as identified in the Owner's Project Criteria within a Design-Builder's Target Budget of one million dollars (\$ 1,000,000.00).

Therefore, the Design-Builder's Price Proposal is: \$1,000,000.00

The actual Contract Sum will be confirmed through the Design-Builder's Phase 1 Progressive Design-Build Services and negotiation of final terms and conditions of the Design-Build Contract in accordance with IC 5-30-7-8, but will not exceed this Price Proposal without Owner approval.

- ☐ Design-Builder states that it **cannot** complete the project substantially as identified in the Owner's Project Criteria within a Design-Builder's Target Budget of one million dollars (\$1,000,000.00). Design-Builder is quoting a higher Target Budget as its Price Proposal.

Therefore, the Design-Builder's Price Proposal is: [Insert Alternate Price Proposal]

The actual Contract Sum will be confirmed through the Design-Builder's Phase 1 Progressive Design-Build Services and negotiation of final terms and conditions of the Design-Build Contract in accordance with IC 5-30-7-8, but will not exceed this Price Proposal without Owner approval.

Quote for Phase 1 Progressive Design-Build Services

Design-Builder proposes to provide Phase 1 Progressive Design-Build Services, including submittal of a Phase 1 Progressive Design-Build Report, as identified in the Owner's RFP for a lump sum fee of:

[Insert Phase 1 Fee in numerals and text]

Signature

The undersigned is authorized by the Design-Build Entity to submit this Price Proposal and make the corporate commitment it represents on behalf of the Design-Builder.

By: [Insert Design-Build Entity Name]

[Insert Printed Name]

[Insert Title]

Date: May 24, 2024