

May 8, 2009

ADDENDUM No. 1

To

REQUEST FOR PROPOSAL

For

**GENERAL CONSTRUCTION SERVICES
(PURSUANT TO "TASK ORDER")**

For the

SCHOOL FACILITIES PROJECTS

Contract No.: GP-0127-C01

ISSUED APRIL 15, 2009

By

THE NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

**THE PROPOSAL PACKAGE DUE DATE HAS BEEN EXTENDED
Proposal Due Date: May 20, 2009**

This addendum shall be considered part of the Bid Documents issued in connection with the referenced project. Should information conflict with the Bid Documents, this Addendum shall supersede the relevant information in the Bid Documents.

On page 8 of the RFP dated February 19, 2009, under the section titled Price Proposal, please delete the third paragraph in its entirety and replace with the following paragraph:

Please note that this is a labor and material contract. Labor and Material totals shall include all direct costs the Contractor intends to recoup through compensation under the Agreement, including, but not limited to, the following: direct labor and field supervision base salary / hourly compensation inclusive of fringe benefits, travel expenses, payroll burden, and per diem, all sub-contractor costs, all material costs inclusive of delivery, equipment costs inclusive of mobilization, delivery, fuel usage, on site maintenance, de-mobilization and removal . The Cost Multiplier shall include all indirect costs the Contractor intends to recoup through compensation under the Agreement, including, but not limited to the following: profit, overhead office labor base salary / hourly compensation inclusive of fringe benefits, overhead costs, facilities costs, depreciation, and general and administrative costs.

Please replace Article 9.0 of the Construction General Conditions with the revised Article 9.0 below, which reflects changes based upon the Authority's renewal of its OCIP coverage:

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9.0 BONDS AND INSURANCE

9.1 Performance and Payment Bonds

- 9.1.1 The Contractor shall furnish within five (5) Days of receipt of the Notice of Award both a performance bond and a payment bond, each in a form satisfactory to the Authority, in an amount equal to one-hundred percent (100%) of the Contract Price, guaranteeing the timely performance of all obligations of the Contractor under the Contract Documents. No contract shall be executed by the Authority unless and until the required bonds are submitted and accepted by the Authority.
- 9.1.2 The surety issuing the bonds must be currently authorized to do business in the State of New Jersey.

- 9.1.3 The bonds shall cover all guarantees and warranties required by the Contract Documents, and all alterations, extensions of Contract Time, Changes in the Work and other changes authorized by the Contract Documents, without the need to secure the consent of the surety or sureties.
- 9.1.4 The bonds must be legally effective as of the date the Contract is executed. Each bond must indicate the Contractor's name exactly as it appears in the Contract. Current attorney-in-fact instruments and financial statements of the surety must be included for each bond. An authorized officer or agent of the surety must execute the bonds. All bonds and the sureties that write them must conform in all respects to the requirements of applicable State law.

9.2 Insurance

- 9.2.1 Owner Controlled Insurance Program Coverage. The Authority has implemented a School Facility Owner Controlled Insurance Program ("OCIP") in accordance with N.J.S.A. 18A:7G-44. The terms and conditions of this Section 9.2, addressing OCIP and the Contractor insurance requirements, shall apply during the Term of the Contract. In addition, the Contractor and its Subcontractors shall be required to comply with all provisions of the applicable NJSDA Safety Manual, as such compliance has a direct bearing on the insurance costs of the Authority. OCIP will provide Builders's Risk coverage and the following on-site coverage: General Liability, Employer's Liability, Workers' Compensation and Excess Liability. Through OCIP, the Authority shall provide coverage to the Contractor and eligible Subcontractors of every tier providing on-site Work on the Project, except as otherwise provided herein. Certain types of Subcontractors are not eligible for enrollment in OCIP, as set forth in Section 9.2.23 below. Firms providing temporary labor services and leasing companies are to be treated as Subcontractors for OCIP enrollment purposes. The Authority shall pay all premiums associated with OCIP, including deductibles or self-insured retention, unless otherwise provided in this Contract.
- 9.2.2 Contractor and Subcontractor Insurance Requirements. Although OCIP provides broad coverage and high limits, it is not intended to, nor does it, meet all of the insurance needs of the Contractor and its Subcontractors. In addition to coverage provided by OCIP, the enrolled Contractor shall be responsible for providing proof that it and its Subcontractors have retained, at a minimum, the insurance coverage set forth in Section 9.2.13 below.

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9.2.3 OCIP Management. Management of OCIP enrollment and other OCIP-related issues shall be handled by the Authority's OCIP Administration Services Provider in conjunction with the Authority's Risk Management Unit ("RMU") (collectively, "OCIP Management"). All OCIP questions are to be directed to OCIP Management.

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9.2.4 Mandatory Enrollment. Enrollment in OCIP is mandatory for all OCIP-eligible Subcontractors, but not automatic. The Contractor shall be required to notify OCIP Management of all Subcontractors of every tier providing on-site Work on the Project. For those Subcontractors who are eligible for enrollment in OCIP, the Contractor shall require all such Subcontractors to enroll in the Authority's OCIP program pursuant to the enrollment procedures as provided by the Authority in the SDA OCIP Insurance Procedures Manual (the "Manual"). Any failure on the part of the Contractor to comply with this Section may negate coverage under OCIP, and the Contractor shall bear all risk associated with any such lack of coverage.

9.2.5 Coverage Term. The term of OCIP coverage shall extend and terminate as follows:

9.2.5.1 Coverage of the Contractor. Builder's Risk coverage shall extend to and terminate upon the occurrence of Substantial Completion of the Project, as such is defined herein. On-site General Liability, Employer's Liability, Workers' Compensation and Excess Liability coverage of the Contractor shall extend to and terminate upon Final Completion of the Project, as defined herein.

9.2.5.2 Coverage of Subcontractors. On-site General Liability, Employer's Liability, Workers' Compensation and Excess Liability coverage provided to any Subcontractor shall extend to and terminate upon the earlier of: (i) Final Completion of the Project, defined herein or (ii) the completion of the Subcontractor's Work on the Project. Builders Risk coverage provided to any Subcontractor shall extend to and terminate upon the earlier of: (i) the occurrence of Substantial Completion of the Project, defined herein or (ii) completion of such Subcontractor's Work on the Project.

9.2.5.3 Warranty Work Exclusion. The Contractor and any Subcontractor of any tier shall be ineligible for participation in the OCIP and thus shall be responsible for purchasing and maintaining its own insurance coverage in accordance with Section 9.2.13 below for the performance,

after Final Completion of the Project, as such is defined herein, of any warranty Work on the Project pursuant to Section 19.0 and in no event shall such Work be subject to coverage under the OCIP.

9.2.6 Authority's Right to Terminate OCIP Insurance Coverage

9.2.6.1 Right to Terminate OCIP. The Authority, at any time, has the right to terminate or to modify OCIP or any portion thereof. To exercise such right, the Authority shall provide thirty (30) Days advance written notice of termination or material modification to the Contractor and all Subcontractors covered by the affected OCIP coverage. In such event, the Contractor and Subcontractors shall be required to obtain such replacement insurance coverage as may be specified by the Authority. Certificates of Insurance evidencing that such replacement insurance coverage has been obtained shall be provided to the Authority's RMU prior to the effective date of the termination or modification of OCIP coverage. The Authority shall reimburse the Contractor for the reasonable cost of such replacement insurance coverage. The Contractor shall be required to submit an invoice to the Authority for the reasonable cost of such replacement insurance obtained by the Contractor and its Subcontractors.

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9.2.6.2 Right to Terminate Enrollment. The Authority has the right to terminate enrollment of the Contractor or any of its Subcontractors in OCIP or any portion thereof at any time. To exercise such right, the Authority shall provide thirty (30) Days advance written notice of termination to the Contractor or Subcontractor. In such event, the Contractor or Subcontractors shall be required to obtain such replacement insurance coverage as may be specified by the Authority. Certificates of Insurance evidencing that such replacement insurance coverage has been obtained shall be provided to the Authority's RMU prior to the effective date of the termination of coverage of the Contractor or Subcontractors under OCIP. The Authority shall reimburse the Contractor and Subcontractors for the reasonable cost of such replacement insurance coverage. The Contractor or Subcontractors shall be required to submit an invoice to the Authority for the reasonable cost of such replacement insurance coverage obtained by the Contractor and its Subcontractors. Notwithstanding anything to the contrary, in the event the Contract is Terminated for Convenience or Terminated for Cause, OCIP coverage shall terminate

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as set forth in the Notice of Termination for Convenience or Notice of Termination for Cause, as appropriate.

9.2.7 Waiver of Subrogation. The Contractor waives all rights of subrogation and recovery against the Authority, the Design Consultant, any Professional Services Consultants, agents or employees of the Authority and and/or Subcontractors of all tiers to the extent of any loss or damage suffered during construction, including damage to any property or equipment insured under OCIP. The Contractor shall require all Subcontractors of any tier enrolled in OCIP to include in their contracts with the Contractor the same waiver of their rights to subrogation and recovery.

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9.2.8 No Release. The provision of OCIP by the Authority shall in no way be interpreted as relieving the Contractor of any other responsibility or liability under the Contract or any applicable law, statute, regulation, including, but not limited to, the risk of loss and indemnification obligations under Section 16.2.

9.2.9 OCIP Provided Coverage. The terms and conditions of OCIP insurance policies or programs, as such policies or programs may be from time to time amended, are incorporated by reference. The Contractor agrees to be bound by the terms of coverage of OCIP insurance policies or programs. A summary of the terms of coverage of OCIP insurance policies or programs is set forth below.

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9.2.9.1 Workers' Compensation and Employer's Liability Insurance shall be provided for the Contractor's and its Subcontractors' employees working on the Project Site, in accordance with applicable state laws. Separate policies will be provided reflecting the following coverage and limits of liability:

Workers' Compensation: Applicable Statutory Benefits

Employer's Liability:

\$1,000,000	Bodily Injury by Accident
\$1,000,000	Bodily Injury by Disease - Policy Limit
\$1,000,000	Bodily Injury by Disease - Each Employee

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9.2.9.2 Commercial General Liability Insurance shall be provided on an "occurrence" basis under a master liability policy. Certificates of Insurance will be provided to the Contractor and all tiers of enrolled Subcontractors reflecting the following Limits of Liability:

\$2,000,000	Bodily Injury and Property Damage Liability Combined Single Limit each occurrence (per Region)	Deleted: .
\$5,000,000	General Aggregate Limit (per Region) reinstated annually	Deleted: .
\$5,000,000	Products/Completed Operations Aggregate (per Region)	Deleted: .
\$2,000,000	Personal Injury and Advertising Injury	Deleted: .
\$300,000	Fire, Explosion, Water Damage and Sprinkler Leakage Legal Liability	Deleted: . \$50
\$10,000	Medical Expense – any one person	Deleted: \$5
		Deleted: \$2,000,000 . . Railroad Protective Liability

Commercial General Liability Insurance coverage and terms shall include, but shall not be limited to, the following:

- (a) Occurrence Basis;
- (b) Products;
- (c) Completed Operations (ten-year term after Project Final Completion or the statute of repose, whichever is less); Deleted: six Deleted: .
- (d) Contractual Liability – including all Railroads;
- (e) Independent Contractor’s Liability;
- (f) Personal Injury;
- (g) Explosion, Collapse, and Underground (X,C,U); and Deleted:) . exclusions deleted;
- (h) Designated Premises Coverage Only.

9.2.9.3 Excess Liability Insurance shall be provided under master liability policies. Certificates of Insurance will be provided to the Contractor and all tiers of enrolled Subcontractors reflecting the following Limits of Liability: Deleted: a Deleted: policy.

\$200,000,000 per occurrence	Deleted: 300
\$200,000,000 aggregate	Deleted: 300

9.2.10 Builder’s Risk Coverage

9.2.10.1 Builder’s Risk shall provide “All Risk” coverage on an agreed amount, replacement cost basis subject to standard exclusions, property limitations and conditions. Such insurance shall include the interests of Deleted: All Risk Coverage. Deleted: a

the Authority, the Contractor, and any enrolled Subcontractor of any tier providing direct labor on the Project, with the following terms:

Primary Limit: \$200,000,000
Sublimits:
Transit: \$5,000,000 any one conveyance
Offsite Storage: \$5,000,000 any one location

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Exclusions.

9.2.10.2 The Builder's Risk policy shall not provide coverage against loss by theft or disappearance of any materials (unless the materials are to be incorporated into the Project), tools or equipment of the Contractor or of any enrolled Subcontractor of any tier, or of any other person furnishing labor or materials for the Project.

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9.2.11 Insurance Certificates and Policies. Each enrolled Contractor and all tiers of enrolled Subcontractors shall receive Certificates of Insurance evidencing the General Liability and Excess Liability coverage. The related policies shall be available for review by the Contractor upon request to the OCIP Management. The Contractor and its Subcontractors shall be bound by the terms of coverage as contained in such Certificates of Insurance and/or policies.

9.2.12 Contractor and Subcontractors OCIP Responsibilities. The Contractor and Subcontractors of all tiers enrolled in OCIP shall cooperate with OCIP Management in the administration and operation of OCIP. Such responsibilities and cooperation shall include, but are not limited to, the following:

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9.2.12.1 Ensuring that no enrolled Subcontractor shall commence Work at the Site until it has received Subcontractor approval from the Authority as set forth in Section 7.3 of this Contract.

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9.2.12.2 Compliance with all applicable safety program, administrative, and claims procedures, as outlined in the respective manuals.

9.2.12.3 Promptly providing requested contract, operations, safety, and insurance information.

9.2.12.4 Promptly responding to OCIP Management or OCIP insurer requests for claims, payroll, or other information.

9.2.12.5 Attending periodic meetings regarding administration, claims review, or safety.

9.2.12.6 Completing all OCIP forms required by the OCIP Management or the Manual.

9.2.13 Supplemental Insurance Requirements of the Contractor and Subcontractors. Prior to undertaking any Work under the Contract, the Contractor shall maintain, and/or cause its Subcontractors to maintain, at their own cost and expense evidence of a policy or policies of insurance as enumerated below. The Contractor and its Subcontractors shall be responsible for maintaining such coverages after Final Completion and during the warranty period for the Project.

Deleted: The Contractor warrants they will notify the Authority in writing of any reduction in the aggregate coverage within thirty (30) Days. The Contractor warrants that coverage shall not be circumscribed by any endorsements excluding coverage arising out of pollution conditions, asbestos related claims, testing, monitoring, measuring operations or laboratory analysis in connection with the Work performed pursuant to the Contract.

9.2.13.1 The following are the exposures on-Site and off-Site for which the Contractor and Subcontractors must obtain insurance coverage in addition to OCIP insurance requirements:

9.2.13.1.1 Pollution Liability. In the event that the Contractor's and Subcontractor's efforts involve Pollution Liability exposure (including asbestos and lead work, hazardous material abatement, transportation and/or disposal), the Contractor is required to maintain, or cause to be maintained, Pollution Liability insurance and, if necessary, Commercial Umbrella Insurance, with minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate which protects the insureds from any and all claims that may arise out of or in consequence of any service or Work performed on this Project. If the Contractor performs Work and also utilizes the efforts of Subcontractors, insurance coverage must extend to them.

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The policy shall name the Authority, EDA, the State, the CM, the Design Consultant, the Project School District and their respective officers, employees and agents as Additional Insureds. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority. In addition, the Contractor may be required to name other parties as Additional Insureds prior to the initiation of such work, and shall comply with all laws, ordinances, rules and

regulations of Federal, State, county and municipal authorities in the performance of said Work.

9.2.13.1.2 Off-Site and On-Site Business Automobile Liability. Business Automobile Liability and, if necessary, Commercial Umbrella Insurance covering the operations, maintenance and use, loading and unloading of all owned, hired, and non-owned vehicles used for or in connection with the Project. The limits of liability shall not be less than \$1,000,000 combined single limit each accident. Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability-Broadened Coverage for covered autos endorsement, CA 99 48, shall be provided, and the Motor Carrier Act endorsement (MCS-90) shall be attached.

The policy shall include, as additional insureds, using ISO Designated Insured endorsement CA 20 48 (or a substitute form providing equivalent coverage), the Authority, the EDA, the New Jersey Department of Education, the State, the CM, the Design Consultant, and the Project School District, and their respective directors, officers, members, employees and agents. The Contractor agrees to name other parties as additional insureds as required prior to the initiation of the Work.

9.2.13.1.3 Off-Site Workers' Compensation and Employer's Liability. Workers' Compensation Insurance in accordance with the laws of the State of New Jersey and any other state or Federal jurisdiction as is required to protect the employees of the Contractor or any Subcontractor engaged in the performance of Work on the Project. This policy shall include Employer's Liability protection with a limit of liability of not less than the following:

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Bodily Injury by Accident \$500,000 each accident

Bodily Injury by Disease \$500,000 each employee
Bodily Injury by Disease \$500,000 policy limit.

9.2.13.1.4 Off-Site Commercial General Liability.

Commercial General Liability Insurance, written as broad as the standard coverage form in use in the State of New Jersey as of the Effective Date of the Contract. This insurance shall not be circumscribed by any endorsements limiting the coverage. The policy shall include coverage for contractual liability, products, completed operations and any explosion, collapse and underground (X,C,U) operations. Limits of liability shall not be less than \$1,000,000 Bodily Injury and Property Damage combined single limit for each occurrence, with excess or umbrella coverage with the same terms and conditions as the underlying coverage in an amount such that the primary and excess/umbrella coverage equals \$1,000,000. The policy shall either be endorsed to exclude the Project, or, if the policy includes the Project, such coverage must be endorsed as Excess and/or Difference in Conditions ("DIC") of OCIP coverage, and the cost thereof shall not be charged to or paid by the Authority.

9.2.13.1.5 Off-Site/On-Site Contractors' Equipment.

The Contractor shall purchase and maintain Contractor's property insurance covering construction machinery, whether or not the capital value of the machinery has been included in the Contract, equipment, and tools used by the Contractor in the performance of the Work. Such coverage shall be written on a policy form at least equivalent to that provided by a "Contractor's Equipment Floater," as such is customarily defined within the insurance industry. The Contractor shall notify all tiers

of Subcontractors of their obligation to insure any machinery, equipment and tools used by the Subcontractors in the performance of the Work

9.2.13.2 As provided in this Section 9.2, notwithstanding enrollment in OCIP, the Contractor and its Subcontractors of every tier providing direct labor on the Project must, upon enrollment in OCIP, attach to the required enrollment forms, certificates of valid insurance evidencing current coverage for the On-Site and Off-Site exposures enumerated above. These exposures are not covered by OCIP. Insurance binders are not acceptable as proof of insurance coverage.

9.2.13.3 Such coverage must be purchased and maintained from insurance companies authorized to transact the business of insurance in the State of New Jersey and are rated "A- VII" or better by A.M. Best Company.

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9.2.13.4 In each policy, the Contractor shall have incorporated a provision, in accordance with the laws of New Jersey, requiring written notice to the Authority at least thirty (30) Days prior to cancellation or non-renewal of any insurance coverage required under this Section. The Contractor warrants that if the insurer, or coverage, is not subject to the provisions requiring thirty (30) Day prior notification of cancellation or non-renewal, it will, in any event, provide notice to the Authority immediately upon receipt of any notice of cancellation or non-renewal of any insurance coverage required under this Section.

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9.2.13.5 The Contractor warrants that its insurance carriers are accurately informed regarding business activities of the Contractor and intend to insure those business exposures.

9.2.13.6 For purposes of this Section, "Off-Site" shall include, but not necessarily be limited to, Contractor's regularly established workplace, plant, factory, office, shop, warehouse, yard, or other property, even if such operations are for training of apprentices or for fabrication of materials to be used at the Project Site.

Deleted: <#>All insurance policies, exclusive of Workers' Compensation and Contractor's Equipment, shall name the Authority, EDA, the State, the CM, the Design Consultant, the Authority's Project Manager, the Project School District and their respective officers, employees and agents as Additional Insureds. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority. In addition, the Contractor may be required to name other parties as Additional Insureds prior to the initiation of such work, and shall comply with all laws, ordinances, rules and regulations of Federal, State, county and municipal authorities in the performance of said Work.¶

9.2.14 Exclusions. All exclusions added by endorsement to the aforementioned insurance shall be declared to the Authority.

9.2.15 Self-Insured Retention. Any deductible or self-insured retention (SIR) applicable to the aforementioned insurance shall be declared to and approved by the Authority and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions). The Contractor shall not be permitted to have a SIR larger than \$100,000 unless it obtains the express, written consent of the Authority to the larger SIR. **FAILURE TO COMPLY WITH SECTION 9.2.15 IS A MATERIAL BREACH OF CONTRACT.**

9.2.16 Claims-Made Basis. If any of the aforementioned insurance is written on a "claims made basis", the Contractor warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of five (5) years after the date of Final Payment by the Authority and the Contractor will provide Certificates of Insurance evidencing continuance of coverage with the original claims made retroactive date. Within the Certificate of Insurance, in the blocks designated "Policy Number," in addition to the policy number, the Contractor shall insert a note "claims made retroactive date ____/____/____" (with the date inserted).

9.2.17 In the event that the Contractor provides better coverage or higher limits of insurance to other clients, the Contractor shall extend the same coverage and/or limits to the Authority.

9.2.18 Certificate of Insurance. Attached to the Contract Documents shall be a valid Certificate of Insurance, executed by a duly authorized representative of each insurer, evidencing compliance with the insurance requirements set forth herein. A Certificate of Insurance must also be submitted and appended to the Contract Documents to evidence each insurance renewal required by this Section 9.2. Failure of the Authority to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Contract at the Authority's option. The Contractor shall provide certified copies of all insurance policies required within ten (10) Days of the Authority's written request for such policies.

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9.2.19 No Recourse. There shall be no recourse against the Authority, the State or the Project School District for payment of premiums or other amounts with respect to the insurance required by this Section.

9.2.20 Disclaimer. The Contractor and each Subcontractor is responsible to ensure that their respective insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage, at their own expense, that they deem advisable, whether or not specified herein.

9.2.21 Liability in Excess of Coverage. By executing the Contract, the Contractor expressly agrees that any insurance protection required herein or by the Contract Documents shall in no way limit the Contractor's obligations under the Contract and shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it preclude the Authority from taking such other actions as are available to it under other provisions of the Contract or otherwise in law or equity.

9.2.22 Right to Remedy. If the Contractor fails to obtain and/or maintain the insurance as required in this Section 9.2, fails to renew any of its insurance policies as necessary, or in the event any policy is canceled, terminated or modified so that the insurance does not meet the requirements of the Contract, the Authority may: (i) purchase insurance at the Contractor's expense; (ii) refuse to make payment of any further amounts due under the Contract Documents; (iii) refuse to make payments due or coming due under other agreements between the Contractor and the Authority; (iv) suspend performance by the Contractor under the Contract Documents; or (v) terminate the Contract. Any funds retained pursuant to this Section 9.2.22 may be used, at the Authority's discretion to renew or purchase the Contractor's insurance for the periods and amounts as set forth in the Contract Documents. In the event the Authority purchases said insurance the Authority may, at its discretion, reduce the Contractor's Compensation under the Contract by the amount paid for such insurance plus reasonable attorney's fees. By requiring insurance herein, the Authority does not represent that coverage and limits will necessarily be adequate to protect the Contractor, and such coverage and limits shall not be deemed as a limitation on the Contractor's liability under the Contract.

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9.2.23 Subcontractors Ineligible for OCIP. Subcontractors of the types set forth below, or that solely provide the types of work enumerated below, shall not be eligible for enrollment in the OCIP (hereinafter cited as "Ineligible Subcontractors"). The Authority may, at its sole discretion, exclude other types of Subcontractors from enrollment in the OCIP. The following shall be Ineligible Subcontractors:

9.2.23.1.1 Professional Services Consultants;

- 9.2.23.1.2 Suppliers (that do not perform or subcontract installation);
- 9.2.23.1.3 Vendors;
- 9.2.23.1.4 Guard & security services;
- 9.2.23.1.5 Janitorial services;
- 9.2.23.1.6 Truckers (including trucking to the Site where delivery or removal of materials is the only scope of work performed);
- 9.2.23.1.7 Other temporary project services;
- 9.2.23.1.8 Demolition;
- 9.2.23.1.9 Lead, asbestos, & hazardous materials abatement;
- 9.2.23.1.10 Off-site fabricators; and
- 9.2.23.1.11 Material Dealers
- 9.2.23.1.12 Others at the sole discretion of the Authority

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- 9.2.24 Insurance Requirements of Ineligible Subcontractors. Unless otherwise directed by the Authority, the Contractor shall require all Ineligible Subcontractors to purchase and maintain at their own expense the insurance coverages set forth below. Prior to permitting an Ineligible Subcontractor to perform any Work, the Contractor must furnish OCIP Management with certificates of insurance, in a form satisfactory to the Authority, showing that the Ineligible Subcontractors have complied with this Section 9.2.24. Insurance binders are not acceptable as proof of insurance coverage.

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Such coverage must be purchased and maintained from insurance companies authorized to transact the business of insurance in the State of New Jersey and are rated "A- VII" or better by A.M. Best Company. In each policy, the Contractor shall require Ineligible Subcontractors to have incorporated a provision, in accordance with the laws of New Jersey, requiring written notice to the Authority at least thirty (30) Days prior to cancellation or non-renewal of any insurance coverage required under this Section. The Contractor shall require the Ineligible Subcontractors to warrant that if the insurer, or coverage, is not subject to statutory or other provisions requiring thirty (30) Days prior notification of cancellation or non-renewal, it will, in any event, provide notice to the Authority immediately upon receipt of any notice of cancellation or non-renewal of any insurance coverage required under this Section.

The Contractor shall require its Ineligible Subcontractors to warrant that its insurance carriers are accurately informed regarding business activities of the Ineligible Subcontractor and intend to insure those business exposures.

9.2.24.1 The coverages enumerated below shall protect the Contractor, the Authority, the EDA, the New Jersey Department of Education, the State, the Construction Manager, the Design Consultant, and the Project School District, and their respective directors, officers, members, employees and agents against claims of or relating to personal and bodily injury (including death) to persons or damage to property which may arise from or in connection with the performance of the Work (whether performed On-site or Off-site) by the Ineligible Subcontractor, its employees, officers, agents, subcontractors or other individuals or entities for whom the Ineligible Subcontractor may be contractually or legally responsible while performing Work. The required coverages are as follows:

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9.2.24.1.1 Commercial General Liability. Commercial General Liability insurance is to be written as broad as the standard coverage form currently in use in the State of New Jersey, and shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include coverage for contractual liability, products, completed operations and any explosion, collapse and underground (X,C,U) operations. Limits of liability shall not be less than \$5,000,000 combined single limit with excess or umbrella coverage with the same terms and conditions as the underlying coverage in an amount such that the primary and excess/umbrella coverage equals \$5,000,000.

9.2.24.1.2 Pollution Liability. In the event that the Ineligible Subcontractors' efforts involve a Pollution Liability exposure (including asbestos and lead work, hazardous material abatement, transportation and/or disposal), the Contractor is required to maintain, or cause to be maintained, Pollution Liability insurance and, if necessary, Commercial Umbrella Insurance, with minimum limits of \$5,000,000 per occurrence and \$5,000,000 aggregate which protects the insureds from

any and all claims that may arise out of or as a consequence of any Work performed on this Project. If the Contractor performs Work and also utilizes the efforts of Subcontractors, insurance coverage must extend to them.

9.2.24.1.3 Off-Site/On-Site Contractors Equipment.

The Ineligible Subcontractor shall purchase and maintain Contractor's property insurance covering construction machinery, whether or not the capital value of which has been included in the Contract, equipment, and tools used by the Ineligible Subcontractors in the performance of Work. Such coverage shall be written on a policy form at least equivalent to that provided by a "Contractor's Equipment Floater," as such is customarily defined within the insurance industry. The Ineligible Subcontractors shall notify all tiers of sub-Subcontractors of their obligation to insure any machinery, equipment and tools used by the Ineligible Subcontractors in the performance of Work. The Ineligible Subcontractors shall indemnify, defend, and hold the Authority and its officers, agents, and employees harmless from any such loss, theft, or disappearance.

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9.2.24.1.4 Business Automobile Liability. The Ineligible Subcontractors shall carry Business Automobile Liability Insurance covering owned, non-owned, and hired vehicles. The limits of liability shall not be less than \$1,000,000 combined single limit each accident. Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability Broadened Coverage for covered autos endorsement, CA 99 48, shall be

provided, and the Motor Carrier Act endorsement (MCS-90) shall be attached.

9.2.24.1.5 Workers' Compensation, Employer's Liability. Workers' Compensation Insurance in accordance with the laws of the State of New Jersey and any other State or Federal jurisdiction as is required to protect the employees of the Subcontractors or any subcontractor who will be engaged in the performance of the Work. This policy shall include Employer's Liability protection with a limit of liability of not less than \$500,000, as follows:

<u>Bodily Injury by Accident</u>	<u>\$500,000 per accident</u>
<u>Bodily Injury by Disease</u>	<u>\$500,000 per employee</u>
<u>Bodily Injury by Disease</u>	<u>\$500,000 policy limit</u>

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9.2.24.2 Endorsement and Waivers. The Commercial General Liability Policy, Automobile Liability Policy, Pollution Liability and Excess/Umbrella Policies required to be provided by the Ineligible Subcontractors shall contain or be endorsed to contain the following provisions:

9.2.24.2.1 The Contractor, the Authority, EDA, DOE, the State, the CM, the Design Consultant and the Project School District, and their respective directors, officers, members, employees and agents shall be covered as additional insureds. In addition, the Ineligible Subcontractors may be required to name other parties as Additional Insureds prior to the initiation of such Work.

9.2.24.2.2 For any claims related to the Project, the Ineligible Subcontractors' insurance coverage shall be primary insurance with respect to the Contractor, the Authority, EDA, DOE, the State, the CM, the Design Consultant, and the Project School District, and their

respective directors, officers, members, employees and agents and the Contractor warrants that coverage shall be required to continue for a minimum of two years notwithstanding the fact that the Ineligible Subcontractor has departed from the Project site. Any insurance or self-insurance maintained by the Authority, the State or the Project School District, and their respective directors, officers, members, employees and agents, shall be excess of the Ineligible Subcontractors' insurance, and shall not contribute with it.

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9.2.24.2.3 Any failure on the part of the Ineligible Subcontractors to comply with reporting provisions or other conditions of the policies, any breach of warranty, any action or inaction of the Ineligible Subcontractors or others, any foreclosure related to the Project or any change in ownership of all or any portion of the Project shall not affect coverage provided to the Contractor, the Authority, EDA, DOE, the State, the Construction Manager, the Design Consultant, the Project School District, and their respective directors, officers, members, employees and agents.

9.2.24.2.4 The Ineligible Subcontractors' insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9.2.24.3 Disclaimer. Ineligible Subcontractors shall be responsible for ensuring that their respective insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage that they deem advisable, whether or not specified herein.

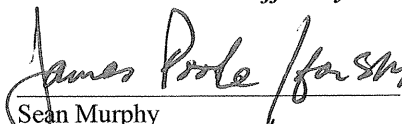
9.2.24.4 No Recourse. There shall be no recourse against the Authority, the State or the Project School District for payment of premiums or other amounts with respect to the insurance required of Ineligible Subcontractors hereunder.

9.2.24.5 Right to Remedy. If an Ineligible Subcontractor fails to provide insurance as required herein, the Authority shall have the right, but not the obligation, to purchase such insurance. In such event, the Contract Price shall be reduced by the amount paid for such insurance.

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Please, there shall be absolutely no contact between our staff and you.

Issued by:



Sean Murphy

Manager

Procurement & Contract Services

Issued: May 8, 2009