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MISSISSIPPI
SECRETARY OF STATE

NOTICE OF RULE ADOPTION—FINAL RULE
STATE OF MISSISSIPPI
Bureau of Building, Grounds and Real Property Management

Bureau of Building, Grounds and RPM
c/o Tricia Weir, Contract Analyst Senior
501 North West Street, Suite 1401B
Jackson, Mississippi 39201 Hand Delivered
601-359-3621 weirt@dfa.state.ms.us
Date Rule Proposed: April 6, 2009

Specific Legal Authority authorizing the Promulgation of Rule:
none
Reference to Rules repealed, amended or suspended by the
Proposed Rule: none

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: {Insert here

1. Adopt the AIA 2007 General Conditions in Section 00700 and Amend the Bureau of Building's Supplementary Conditions Section 00800 (the American Institute of Architects' Gen. Conds are protected by U.S. Copyright Law; however, Bureau of Building, et al, Supp. Conds. are attached) (May 31" is last date to get previous AIA Gen. Conds. From the AIA - State must adhere thereto.)
2. Change the requirement for the Contractor's legal name to be shown as required in Division 00100 Instructions to Bidders Sections 2.07, 3.01 envelope, and 5.01 to agree with Proposal Form: from "appearing in the current Mississippi State Board of Contractors Roster" to "Complete spelling of bidder's name and address - exact as recorded at the Secretary of State [<http://www.sos.state.ms.us/busserv/corp/soskb/csearch.asp>] which should be the same as you applied for at the Mississippi State Board of Contractors [<http://www.msbocon.com/Search2.CFM>]"
3. Add a reason in the Instructions to Bidders 1.04 for disqualification of bidder to agree with Procedure Manual Section 600.53.
 - A. Failure to comply with the bid requirements. (in 600.53 but missing in 1.04)
 - B. Bidder is in arrears on existing Contracts with the Bureau or another state agency.
 - C. Bidder is, or anticipates being, in litigation or arbitration with the Bureau or another state agency.
 - D. Bidder has defaulted on a previous Contract.
4. Rearrange the wording on the Proposal Form Addenda Acknowledgment and Mechanical/Electrical Contractors in hopes of obtaining better contractor response on the bid proposals.
5. Change notification of Asbestos from Richard Scruggs, et al, to the Attorney General's Office - State of Mississippi, as requested by Hon. Geoffrey Morgan, Chief of Staff for the Attorney General's Office, in Section 400.4
6. Change the requirement for a Request for Qualifications for Professional from \$1,000,000.00 to \$2,000,000.00 in Section 400.6.
7. Change the requirement for a plaque from "Facilities" to "New buildings and major building renovation projects" in Section 600.30 to comply with Code 29-5-151 that requires plaques on "buildings" . . . paid for with public funds. . . . (to clarify that plaques do not go on i.e. roofs, sewer projects, etc.)
8. Section 00650 Insurance Certificate Instructions referencing AIA Document A201 for 2007 in #1 therein.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date: May 14, 2009
Time: 10:00 a.m.
Place: Conference Center East Room 145, Woolfolk Building
RE: (for BOB info) AGC requested Oral Proceeding for the following items: change from AIA General Conditions to the AGC Consensus Documents; Inst./Bidders 1.04 C. "anticipates litigation" wording; 3.18 indemnification; 9.3.1.4 monthly time CO; arbitrator; and limits on arbitration; future COs; 13.7.1 statute of limitations (not on agenda).
With subsequent presentations from ABC and AIA; and taken under advisement and consideration by DFA/BOBGRPM

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

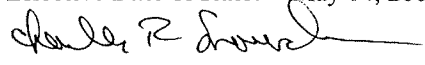
This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor ~~editorial~~ clerical changes which affect the form rather than the substance of the rule. Not a result of the Oral Proceeding - just clerical. (#6 above, changed Request for Proposal to Request for Qualification. Added #8 above for Section 00650 referencing the AIA Document A201 changed herein. Changes amend section page numbers and footer)

The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: May 14, 2009



Signature and Title of Person Submitting Rule for Filing
Charles R. Snowden, Director, Bureau of Building, Grounds and Real Property Management

1.

GENERAL CONDITIONS
SECTION 00700

PART 1 - GENERAL

1.01 **DESCRIPTION**

A. **SCOPE:** The **General Conditions of the Contract for Construction**, AIA Document A201, Sixteenth Edition, 2007, Articles 1 through 15 inclusive, is a part of this Contract and is incorporated herein.

B. **COPY:** Contractors are presumed to be familiar with AIA Document A201, a copy of which may be obtained from the Professional, or examined in the Professional's office.

***** END OF SECTION *****

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2007 SUPPLEMENTARY CONDITIONS

SECTION 00800

PART 1 - GENERAL

1.01 DESCRIPTION

- A. **Owner:** These supplements are necessary because the Owner is an agency, or political subdivision, of the State of Mississippi and occupies a different position from that of the usual Owner.
- B. **Document:** The following supplements modify, change, delete from, or add to the **General Conditions of the Contract**, AIA Document A201, Sixteenth Edition, 2007. When any Article of the **General Conditions** is modified, or deleted, by these *Supplementary Conditions*, the unaltered provisions of that Article, Paragraph, Subparagraph, or Clause will remain in effect.

Article 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

- 1.1.1 **The Contract Documents:** Delete the last sentence of this Subparagraph and substitute the following sentence:

The Contract Documents include the Advertisement for Bids, Instructions to Bidders, Proposal Form, sample forms and all portions of addenda issued prior to execution of the Contract.

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

- 1.5.1 Add a new sentence at the end of this Subparagraph:

This Paragraph in no way supersedes the Owner's document rights set forth in the Agreement Between the Owner and the Professional.

- 1.1.9 Add a new Subparagraph as follows:

COMMISSIONING AUTHORITY PROFESSIONAL

A professional independent of the project engineer or architect retained by the owner who manages a quality focused process for enhancing the delivery of the project. The process focuses upon verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the Owner's project requirements.

Article 2 OWNER

2.1 GENERAL

- 2.1.1 Change this Subparagraph to read as follows:

The Owner, as used in these Documents, refers to the Bureau of Building, Grounds and Real Property Management, acting for and on behalf of the State of Mississippi and for the benefit of the Institution, Agency, or Department for which the Work under this Contract is being performed. The Owner is the entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner's representative, who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization, is the individual who signed the Construction Contract for the Owner. Except as otherwise provided in Subparagraph 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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2.2 **INFORMATION AND SERVICES REQUIRED OF THE OWNER**

2.2.5 Change this Subparagraph to read as follows:

Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary, but in no instance to exceed twenty-five (25) copies, for the execution of the Work.

**Article 3
CONTRACTOR**

3.3 **SUPERVISION AND CONSTRUCTION PROCEDURES**

3.3.1 Change the last sentence to read as follows:

If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner and Architect shall be responsible for any resulting loss or damage.

3.4 **LABOR AND MATERIALS**

3.4.4 Add a new Subparagraph as follows:

The Contractor shall comply with the Mississippi Employment Protection Act in accordance with Section 71-11-3 of the Mississippi Code 1972, Annotated. The Contractor further agrees to maintain records of such compliance, and upon request of the State, to provide a copy of each such verification to the State.

3.9 **SUPERINTENDENT**

3.9.2 Change the second line in this Subparagraph to read as follows:

The Architect shall, within a reasonable time, notify the Contractor in writing of any objection to the proposed superintendent.

3.15 **CLEANING UP**

3.15.2 Change this Subparagraph to read as follows:

If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

3.16 **ACCESS TO WORK**

Change this Paragraph to read as follows:

The Contractor shall provide the Owner, Architect, Commissioning Authority Professional, and their authorized representatives access to the Work in preparation and progress wherever located.

3.18 **INDEMNIFICATION**

3.18.3 Add a new Subparagraph as follows:

The Contractor agrees to defend, hold harmless and indemnify the Owner against all claims or demands caused by the Contractor's acts or omissions.

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Article 4
ARCHITECT

4.1 GENERAL

4.1.4 Add a new Subparagraph as follows:

The term "Architect," "Engineer," or "Professional" as used in these Documents refers to the Professional firm indicated in Paragraph 5.3.1 of the Standard Form of Agreement Between the Owner and the Contractor who has been directed by the Owner to design and inspect construction of this Project.

4.2 ADMINISTRATION OF THE CONTRACT

4.2.1 Change the first line of this Subparagraph to read as follows:

The Architect will provide administration of the Contract as described in the Contract Documents, and will be the Owner's representative (1) during construction, (2) until the final payment is due and (3) with the Owner's concurrence, from time to time during the one year period for correction of Work described in Section 12.2.

Article 5
SUBCONTRACTORS

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Change the first line of this Subparagraph to read as follows:

Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, within 7 days after written notice by Professional of award of the Contract by the Owner, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work.

Article 6
CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

No supplementary conditions.

Article 7
CHANGES IN THE WORK

7.2 CHANGE ORDERS

7.2.2 Add a new Subparagraph as follows:

The maximum cost included in a Change Order for profit and overhead is limited to twenty percent (20%) of the total of the actual cost for materials, labor and subcontracts. Profit and overhead include: all taxes, fees, permits, insurance, bond, job superintendent, job and home office expense. All Subcontractors shall acquiesce to the same requirements when participating in a Change Order.

7.3 CONSTRUCTION CHANGE DIRECTIVES

7.3.9 Delete this Subparagraph in its entirety.

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Article 8
TIME

8.1 DEFINITIONS

8.1.2 Change this Subparagraph to read as follows:

The date of commencement of the Work is the date established in the Notice to Proceed.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 Change this Subparagraph to read as follows:

If the Contractor is delayed at any time in the commencement or progress of the Work by any act of neglect of the Owner or the Architect, or by any employee of either, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or any causes beyond the Contractor's control, or by any other causes which the Architect determines may justify the delay, then the Contract Time may be extended by Change Order for such reasonable time as the Architect may determine, subject to the Owner's approval. Any claim for loss or any delay occasioned by any separate Contractor, or Subcontractor, shall be settled between the Contractor and such other separate Contractor, or Subcontractors.

Article 9
PAYMENTS AND COMPLETION

9.2 SCHEDULE OF VALUES

Change this Paragraph to read as follows:

Where the Contract is based on a stipulated sum, the Contractor shall submit to the Architect, at least 10 days before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work, and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 Add a new sentence to the end of this Subparagraph:

The form of Application for Payment will be AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet, or a computer generated form containing similar data.

9.3.1.1 Delete this Subparagraph in its entirety.

9.3.1.3 Add a new Clause to Subparagraph 9.3.1 as follows:

On any contract as described herein, of which the total amount is Two Hundred Fifty Thousand Dollars (\$250,000.00) or greater, or on any contract with a subcontractor, regardless of amount, five percent (5%) shall be retained until the Work is at least fifty percent (50%) complete, on schedule and satisfactory in the architect's and/or engineer's opinion, at which time fifty percent (50%) of the retainage held to date shall be returned to the prime contractor for distribution to the appropriate subcontractors and suppliers; provided, however, that future retainage shall be withheld at the rate of two and one-half percent (2 1/2%).

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9.3.1.4 Add a new Clause to Subparagraph 9.3.1 as follows:

The Contractor must submit each month with this Application for Payment a separate letter stating that he is requesting an extension of time or that he had no need for an extension for that period of time. No payment on a monthly application will be considered due and payable until the letter is received. Complete justification such as weather reports or other pertinent correspondence must be included for each day's request for extension. A Contractor's letter, or statement, will not be considered as adequate justification. The receipt of this request and data by the Owner will not be considered as Owner approval in any way.

9.3.2.1 Add a new Clause to Subparagraph 9.3.2 as follows:

Payment on materials stored at some location other than the building site, may be approved by the Architect and the Owner after the Contractor has submitted the following items:

- .1 An acceptable Lease Agreement between the General Contractor and the owner of the land, or building, where the materials are stored covering the specific area where the materials are located.*
- .2 Consent of Surety, or other acceptable Bond, to cover the materials stored off-site.*
- .3 All Perils Insurance coverage for the full value of the materials stored off-site.*
- .4 A Bill of Sale from the Manufacturer to the General Contractor for the stored materials.*
- .5 A complete list and inventory of materials manufactured, stored and delivered to the storage site and of materials removed from the storage site and delivered to the job site.*
- .6 A review by the Architect of the materials stored off-site prior to release of payment.*
- .7 Guarantee no storage costs, additional delivery fees, or subsequent costs to the Owner.*

9.5 **DECISIONS TO WITHHOLD CERTIFICATION**

9.5.3 Delete this Subparagraph in its entirety.

9.6 **PROGRESS PAYMENTS**

9.6.2 Change the first line of this Subparagraph to read as follows:

The Contractor shall pay each Subcontractor, in accordance with Section 31-5-27 of the Mississippi Code 1972, Annotated, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work.

9.6.8 Add a new Subparagraph as follows:

The amount retained by the Contractor from each payment to each Subcontractor and material supplier will not exceed the percentage retained by the Owner from the Contractor.

9.6.8.1 Add a new Clause to Subparagraph 9.6.8 as follows:

The Contractors shall submit monthly certification, in accordance with Section 31-5-25 of the Mississippi Code 1972, Annotated, on Owner's "Affidavit Certifying Payment to All Subcontractors" form, to the project engineer or architect indicating payments to subcontractors on prior payment request.

9.6.9 Add a new Subparagraph as follows:

E-Payments: Payments by state agencies using the Statewide Automated Accounting System (SAAS) shall be made, and remittance information provided, electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice.

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9.7 **FAILURE OF PAYMENT**

Change this Paragraph to read as follows:

The Contractor and the Owner shall be subject to the remedies as prescribed in Section 31-5-25 of the Mississippi Code 1972, Annotated.

9.8 **SUBSTANTIAL COMPLETION**

9.8.1 Add the following sentence to the end this Subparagraph to read as follows:

Commissioning requirements must be complete except for thermographs of electrical systems, trend log monitoring, seasonal testing, near-warranty end activities and verification of training sessions.

9.8.4 Change the first line this Subparagraph to read as follows:

When the Work or designated portion thereof is substantially complete and affirmed by the Owner, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.

9.10 **FINAL COMPLETION AND FINAL PAYMENT**

9.10.1 Change this Subparagraph to read as follows:

When, in the opinion of the Contractor, the Work is ready for final inspection and acceptance by the Owner, the Contractor shall make such notice to the Architect in writing.

- 1. Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance by the Owner, the Architect will promptly inspect the Work and compile a list of deficiencies. If, in the Architect's judgment, the Work is not ready for inspection, another inspection will be scheduled.*
- 2. Once the Architect has made inspection and all deficiencies listed by the Architect have been corrected and the Architect determines the Work is ready for final inspection, the Architect will call for final inspection of the Project with the Owner for the purpose of determining whether the Work is acceptable under the Contract Documents.*
- 3. The final inspection shall be conducted in the presence of the Owner and a list of defects or discrepancies, if any, will be compiled into a punch list furnished to all parties.*
- 4. Once corrections of all punch list items have been confirmed by the Architect, the Architect will provide a letter recommending final acceptance of the Work to the Owner.*

9.10.2 Change this Subparagraph to read as follows:

Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) final application for payment, (2) consent of surety to final payment, (3) power of attorney, (4) Contractor's affidavit of release of liens, (5) Contractor's affidavit of payment of debts and claims, (6) Contractor's guarantee of work, (7) Project Record Documents and (8) certificates, warranties, guarantees, bonds or documents as called for in the individual sections of the Project Manual.

9.11 **LIQUIDATED DAMAGES**

9.11.1 Add a new Paragraph as follows:

Time being of the essence and a matter of material consideration thereof, a reasonable estimate in advance is established to cover losses incurred by the Owner if the project is not substantially complete on the date set forth in the Contract Documents. The Contractor and his Surety will be liable for and will pay the Owner the sums stipulated in Paragraph 2.2 of the Standard Form of Agreement Between the Owner and the Contractor as fixed and agreed as liquidated damages for

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each calendar day of delay until the work is substantially complete unless circumstances dictate otherwise in the discretion of the Owner.

Article 10
PROTECTION OF PERSONS AND PROPERTY

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.5 Change this Subparagraph to read as follows:

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible for Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.3 HAZARDOUS MATERIALS

10.3.2 Delete this Subparagraph in its entirety.

10.3.3 Delete this Subparagraph in its entirety.

10.3.4 Delete this Subparagraph in its entirety.

10.3.5 Delete this Subparagraph in its entirety.

10.3.6 Delete this Subparagraph in its entirety.

Article 11
INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.4 Delete this Subparagraph in its entirety.

11.1.5 Add a new Subparagraph as follows:

The Contractor's limits of liability shall be written for not less than the following:

.1 GENERAL LIABILITY:

*Commercial General Liability
(Including XCU)*

<i>General Aggregate.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Products & Completed Operations</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Personal & Advertising Injury.....</i>	<i>\$ 500,000.00 Per Occurrence</i>
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 500,000.00 Per Occurrence</i>
<i>Fire Damage Liability</i>	<i>\$ 50,000.00 Per Occurrence</i>
<i>Medical Expense.....</i>	<i>\$ 5,000.00 Per Person</i>

.2 OWNERS & CONTRACTORS PROTECTIVE LIABILITY:

<i>Bodily Injury & Property Damage.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 500,000.00 Per Occurrence</i>

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.3 **AUTOMOBILE LIABILITY:**

(Owned, Non-owned & Hired Vehicles)

Contractor Insurance Option Number 1:

Bodily Injury & Property Damage \$ 500,000.00 Per Occurrence
(Combined Single Limit)

Contractor Insurance Option Number 2:

Bodily Injury \$ 250,000.00 Per Person

Bodily Injury \$ 500,000.00 Per Accident

Property Damage..... \$ 100,000.00 Per Occurrence

.4 **EXCESS LIABILITY:**

(Umbrella on projects over \$500,000)

Bodily Injury & Property Damage \$ 1,000,000.00 Aggregate
(Combined Single Limit)

.5 **WORKERS' COMPENSATION:**

(As required by Statute)

EMPLOYERS' LIABILITY:

Accident..... \$ 100,000.00 Per Occurrence

Disease..... \$ 500,000.00 Policy Limit

Disease..... \$ 100,000.00 Per Employee

.6 **PROPERTY INSURANCE:**

Builder's Risk \$ Equal to Value of Work

or

Installation Floater \$ Equal to Value of Work

11.1.6 Add a new Subparagraph as follows:

Furnish one (1) copy of the Standard Construction Contract Certificate of Insurance Form for each copy of the Standard Form of Agreement Between Owner and Contractor specifically setting forth evidence of all coverage required by Subparagraphs 11.1.1, 11.1.2 and 11.1.3. Furnish to the Owner copies of any endorsements that are subsequently issued amending limits of coverage.

11.1.7 Add a new Subparagraph as follows:

If the coverages are provided on a claims-made basis, the policy date or retroactive date shall predate the Contract; the termination date, or the policy, or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment.

11.2 **OWNER'S LIABILITY INSURANCE**

Delete this Paragraph in its entirety and substitute the following:

*The Contractor shall purchase and maintain such insurance as will protect the Owner from his contingent liability to others for damages because of bodily injury, including death, and property damage, which may arise from operations under this Contract and other liability for damages which the Contractor is required to insure under any provision of this Contract. Certificate of this insurance will be filed with the Owner and will be the same limits set forth in 11.1.*5.*

11.3 **PROPERTY INSURANCE (BUILDER'S RISK OR INSTALLATION FLOATER)**

11.3.1 Change the first line in this Subparagraph to read as follows:

The Contractor shall purchase....

11.3.1.2 Delete this Clause under Subparagraph 11.3.1 in its entirety.

11.3.1.3 Change the following Clause in this Subparagraph to read as follows:

If the property insurance requires deductibles, the Contractor shall pay costs not covered because of such deductibles.

11.3.2 Delete this Subparagraph in its entirety.

11.3.3 Delete this Subparagraph in its entirety.

11.3.4 Delete this Subparagraph in its entirety.

11.3.5 Delete this Subparagraph in its entirety.

11.3.6 Delete this Subparagraph in its entirety.

11.3.10 Change this Subparagraph to read as follows:

The Owner as fiduciary shall have power to adjust and settle a loss with Insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of loss.

Article 12

UNCOVERING AND CORRECTION OF WORK

No supplementary conditions.

Article 13

MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

Change this Paragraph to read as follows:

The Contract shall be governed by the laws of the State of Mississippi.

13.5 TESTS AND INSPECTIONS

13.5.1 Change the third line of this Subparagraph by adding “*and Commissioning Authority Professional*” after each instance of the word “*Architect*”.

13.5.3 Change this Subparagraph by inserting “*and the Commissioning Authority Professional's*” after the word “*Architect*”.

13.5.5 Change this Subparagraph by adding “*and/or the Commissioning Authority Professional*” after each instance of the word “*Architect*”.

13.7 Change this Paragraph title to read as follows:

COMMENCEMENT OF STATUTORY LIMITATION PERIOD

13.7.1 Change this Subparagraph to read as follows:

As between the Owner and Contractor:

1. Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;

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2. *Between Substantial Completion and Final Acceptance. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to the date of Final Acceptance, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of Final Acceptance; and*
3. *After the date of Final Acceptance. As to acts or failures to act occurring after the relevant date of Final Acceptance, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act of failure to act by the Contractor pursuant to any Warranty provided under Section 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Section 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.*

Article 14

TERMINATION OR SUSPENSION OF THE CONTRACT

No supplementary conditions.

Article 15

CLAIMS AND DISPUTES

15.2 INITIAL DECISION

15.2.1 Change this Subparagraph to read as follows:

Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker. An initial decision by the Initial Decision Maker shall be required as a condition precedent to arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered by the Initial Decision Maker. The Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

15.2.5 Change the last line of this Subparagraph to read as follows:

The initial decision shall be final and binding on the parties but subject to arbitration or litigation.

15.2.6 Delete this Subparagraph in its entirety.

15.2.6.1 Delete this Clause in its entirety.

15.3 MEDIATION

15.3.1 Delete this Subparagraph in its entirety.

15.3.2 Delete this Subparagraph in its entirety.

15.3.3 Delete this Subparagraph in its entirety.

15.4 ARBITRATION

15.4.1 Delete this Subparagraph in its entirety.

15.4.1.1 Delete this Clause in its entirety.

15.4.1.2 Delete this Clause in its entirety.

15.4.2 Delete this Subparagraph in its entirety.

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15.4.3 Delete this Subparagraph in its entirety.

15.4.4 Delete this Subparagraph in its entirety.

15.5 Add a new Paragraph as follows:

ARBITRATION PROCEDURES FOR THE DEPARTMENT OF FINANCE AND ADMINISTRATION'S BUREAU OF BUILDING, GROUNDS AND REAL PROPERTY MANAGEMENT

All matters of dispute arising out of any agreement with the Department of Finance and Administration for planning, design, engineering, construction, erection, repair, or alteration of any building, structure, fixture, road, highway, utility or any part thereof, or any agreement with the Department of Finance and Administration for architectural, engineering, surveying, planning, and related professional services which provides for mediation or arbitration, shall comply with the following course for resolution. No arbitration hearing shall be granted on any claim in excess of One Hundred Thousand Dollars (\$100,000.00).

15.5.1 Add a new Subparagraph as follows:

CONDITIONS PRECEDENT TO ARBITRATION

.1 The aggrieved party must first notify opposing party in writing in detail of the matter(s) in dispute the amount involved and the remedy sought. Such writing shall include copies of any documents, writings, plans, or other matter pertinent to the resolution of the dispute. The Director of the Bureau of Building and a principal of the opposing party shall be the proper parties for such notice and shall be active parties in any subsequent dispute resolution.

.2 If the dispute cannot be satisfactorily resolved, within thirty (30) days of the complaint being rejected in writing by either party, notice by certified mail shall be given to the Deputy Director of the Department of Finance and Administration. A copy of the notice shall be sent by certified mail to the opposing party. Such notice shall be in writing setting forth in detail the matter(s) in dispute, the amount involved, the remedy sought and state that informal resolution between the parties cannot be reached. Such writing shall include copies of any documents, writings, plans, or other matter pertinent to the resolution of the dispute. Opposing party shall have the opportunity to set forth in writing a rebuttal with pertinent documents attached. At the sole discretion of the Deputy Director, oral testimony may be had on the matter.

15.5.2 Add a new Subparagraph as follows:

REQUESTS FOR ARBITRATION: *Within thirty (30) days of a claim being rejected in writing by the Deputy Director of the Department of Finance and Administration, either party may request arbitration. Notices for requests for arbitration shall be made in writing to the Executive Director of the Department of Finance and Administration, P.O. Box 267, Jackson, MS 39201. Such notice shall set forth in detail the matter(s) in dispute, the amount involved, and the remedy sought. A copy of the request shall be mailed to the opposite party. The party requesting arbitration must deposit the sum of two hundred (\$200.00) with its request as a deposit against costs incurred by the arbitrators. Each party will be notified in writing in any manner provided by law of certified mail not less than twenty (20) days before the hearing of the date, time and place for the hearing. Appearance at the hearing waives a party's right to notice.*

15.5.3 Add a new Subparagraph as follows:

SELECTION OF ARBITRATORS: *Upon request for arbitration, a panel of three (3) arbitrators shall be chosen. One (1) member shall be appointed by the Executive Director of the Department of Finance and Administration. One (1) member shall be appointed by the executive director of a professional or trade association which represents interests similar to that of the non-state party. The third member shall be appointed by the first two.*

15.5.4 Add a new Subparagraph as follows:

HEARINGS: *All hearings shall be open to the public. All hearings will be held in Jackson, Mississippi, unless another location is mutually agreed to by the parties. The hearings shall be conducted as prescribed by Mississippi Code 1972,*

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Annotated, Sections 11-15-113, 11-15-115, and 11-15-117. A full and complete record of all proceedings shall be taken by a certified court reporter. The scheduling and cost of retaining the court reporter shall be the responsibility of the party requesting arbitration. The costs of transcription of the record shall be the responsibility of the party requesting such transcript. No arbitration hearing shall be held without a certified court reporter. Deliberations of the arbitrators shall not be part of the record.

15.5.5 Add a new Subparagraph as follows:

***AWARDS:** Awards shall be made in writing and signed by the arbitrators joining in the award. A copy of the award shall be delivered to the parties by certified mail.*

15.5.6 Add a new Subparagraph as follows:

***FEES AND EXPENSES:** Reasonable fees and expenses, excluding counsel fees, incurred in the conduct of the arbitration shall be at the discretion of the Arbitrator except each party shall bear its own attorney's fees and costs of expert witnesses.*

15.5.7 Add a new Subparagraph as follows:

***MODIFICATIONS, CONFIRMATIONS, AND APPEALS:** All modifications, confirmations and appeals shall be as prescribed by *Mississippi Code 1972, Annotated, Section 11-15-123 et seq.* All awards shall be reduced to judgment and satisfied in the same manner other judgments against the State are satisfied.*

15.5.8 Add a new Subparagraph as follows:

***SECRETARY FOR THE ARBITRATORS:** All notices, requests, or other correspondence intended for the arbitrators shall be sent to Executive Director, Department of Finance and Administration, P.O. Box 267, Jackson, MS 39201.*

*** END OF SECTION ***

LABOR REQUIREMENTS

SECTION 00820

PART 1 - EQUAL OPPORTUNITY

1.01 GENERAL

The Contractor will maintain policies of employment as follows:

- A. The Contractor and all Subcontractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.
- B. The Contractor and all Subcontractors will, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants receive consideration for employment without regard to race, religion, color, sex, national origin or age.

PART 2 - DAVIS-BACON ACT REGULATIONS

.....
.....
.....

5.5 CONTRACT PROVISIONS AND RELATED MATTERS

- (a) 1. **Minimum Wages:** (i) All mechanics and laborers employed or working upon the site of the work, will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act, 29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics, and the wage determination decision will be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1 (b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5 (a) (1) (iv). Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly periods.
 - (ii) The contracting officer will require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, will be classified or reclassified conformably to wage determination and a report of the action taken will be sent by the State Agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees to be used, the question, accompanied by the recommendation of the contracting officer, will be referred to the Secretary for final determination.
 - (iii) The contracting officer will require, whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

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2. and 3.

INSTRUCTIONS TO BIDDERS

SECTION 00100

PART 1 - GENERAL

- 1.01 **QUESTIONS:** Questions should be directed to the Professional. Should a Bidder find discrepancies in, or omissions from, the Drawings or Project Manual, or be in doubt as to their meaning, the Bidder should immediately notify the Professional. The Professional will send written instruction(s) or interpretation(s) to all known holders of the documents. Neither the Owner, nor the Professional, will be responsible for any oral instruction or interpretation.
- 1.02 **BIDDER'S QUALIFICATIONS:**
- A. **Certificate of Responsibility:** The Mississippi State Board of Contractors is responsible for issuing Certificates of Responsibility to Contractors. To be awarded a Contract for public work, Sections 31-3-15 and 31-3-21 of the **Mississippi Code 1972, Annotated** requires a Contractor to have a current Certificate of Responsibility at bid time and during the entire length of the job. The Certificate of Responsibility number issued becomes a significant item in all public bidding.
 - B. **Bid Under \$50,000:** If a Bidder submits a bid not exceeding \$50,000, no Certificate of Responsibility number is required; however, a notation stating *the bid does not exceed \$50,000* must appear on the face of the envelope, or a Certificate of Responsibility number.
 - C. **Bid Over \$50,000:** Each Bidder submitting a bid in excess of \$50,000 must show its Certificate of Responsibility number on the bid and on the face of the envelope containing the bid.
 - D. **Joint Venture Bid:** When multiple Contractors submit a joint venture bid in excess of \$50,000, a *joint venture* Certificate of Responsibility number must be shown on the bid and on the face of the envelope containing the bid. If the Multiple-Contractor joint venture has no *joint venture* Certificate of Responsibility number, each of the Contractors participating in the bid must indicate their individual Certificate of Responsibility numbers on the bid and on the face of the envelope.
- 1.03 **NON-RESIDENT BIDDER:** When a non-resident Bidder (a Contractor whose principal place of business is outside the State of Mississippi) submits a bid for a Mississippi public works project, one of the following is required and shall be submitted with the Proposal Form:
- A. **Copy of Law:** If the non-resident Bidder's state has a resident Bidder preference law, a copy of that law shall be submitted with the Proposal Form.
 - B. **Statement:** If the state has no such law then a statement indicating *the State of (Name of State) has no resident Contractor preference law* shall be submitted with the Proposal Form.
- 1.04 **DISQUALIFICATION OF BIDDER:** A Bidder may be disqualified for any of the following reasons: (see 600.53)
- A. Failure to comply with the bid requirements.
 - B. Bidder is in arrears on existing Contracts with the Bureau or another state agency.
 - C. Bidder is, or anticipates being, in litigation or arbitration with the Bureau or another state agency.
 - D. Bidder has defaulted on a previous Contract.
- 1.05 **CONDITIONS OF WORK:** Each Bidder must fully inform himself of all conditions relating to the construction of the Project and employment of labor thereon. Failure to do so will not relieve a successful Bidder of obligations to furnish all material and labor necessary to carry out the provisions of the Contract. Insofar as possible, the Bidder must employ methods, or means, which will not cause interruption of, or interference with, the work of any other Bidder, or Contractor.
- 1.06 **EXAMINATION OF SITE:** All Bidders, including the general Contractor and Subcontractors, shall visit the building site, compare the Drawings and Project Manual with any work in place and be informed of all conditions. Failure to visit the site will in no way relieve the successful Bidder from furnishing any materials or performing any work required to complete work in accordance with Drawings and Project Manual without additional cost to the Owner.
- 1.07 **LAWS AND REGULATIONS:** The Bidder's attention is directed to the fact that all applicable Mississippi state laws, rules and regulations of all authorities having jurisdiction over construction of the Project apply to the Contract.

- 1.08 **OBLIGATION OF BIDDER:** At the bid opening, each Bidder will be presumed to have inspected the site, read and become thoroughly familiar with the Drawings and the Project Manual, including all addenda.
- 1.09 **BID DOCUMENT DEPOSIT AND RETURN:** The deposit amount is indicated in the Advertisement for Bids. Upon returning the documents to the Professional within ten (10) days of the bid date and in good condition, all document holders will be refunded one-half (1/2) of the deposit. Any general contractor submitting a bid and all mechanical and/or electrical Subcontractors will be refunded one hundred percent (100%) of the deposit on one (1) set and fifty percent (50%) for each additional set. No partial sets of documents will be issued. Selected plan rooms will be issued one (1) set of documents without charge.

PART 2 - PROPOSAL FORM

- 2.01 **METHOD OF BIDDING:** Lump sum, single bids received on a general contract will include general, mechanical and electrical construction and all work shown on Drawings or specified in the Project Manual.
- 2.02 **PROPOSAL FORMS:** The Bidder shall make all proposals on forms provided and shall fill all applicable blank spaces without interlineations or alteration and must not contain recapitulation of the work to be done. No oral or telegraphic proposals will be considered.
- 2.03 **TIME OF COMPLETION:** The Bidder shall agree to commence work on, or before, a date specified in a written *Notice to Proceed* and fully complete the Project within the calendar days indicated on the Proposal Form.
- 2.04 **BASE BID AND ALTERNATES:**
- A. On the Proposal Form, the Bidder shall write out the Base Bid amount in words and include the numerical amount. The written word shall govern.
 - B. The Proposal Form shall contain a brief description of each alternate modifying the scope. The Bidder shall write out the amount in words and include the numerical amount for each alternate. The written word shall govern. Refer to Section 01030 entitled *Alternates* for additional information.
- 2.05 **SUBSTITUTIONS:** No substitutions, qualifications or redefining of the Specification requirements are allowed to be marked on the Proposal Form, unless specifically required by the Bid Documents. Refer to Section 01630 entitled *Substitutions and Product Options* which covers procedures after the award of Contract.
- 2.06 **ADDENDA:** Any addenda to the Drawings or Project Manual issued before or during the time of bidding shall be included in the proposal and become a part of the Contract. The Proposal Form will have ample space to indicate the receipt of addenda. When completing the Proposal Form, the Bidder shall list the Addendum number and the date received in spaces provided.
- 2.07 **BIDDER IDENTIFICATION:**
- A. **Signature:** The Proposal Form shall be signed by any individual authorized to enter into a binding agreement for the Business making the bid proposal.
 - B. **Name of Business:** The name appearing on the Proposal Form should be the complete spelling of bidder's name - exact as recorded at the Secretary of State [<http://www.sos.state.ms.us/busserv/corp/soskb/csearch.asp>] which should be the same as you applied for at the Mississippi State Board of Contractors [<http://www.msdoc.us/Search2.CFM>] (see 2.07, 3.01, 5.01, proposal form)
 - C. **Legal Address:** The address appearing on the Proposal Form should be the same address exact as recorded at the Secretary of State [<http://www.sos.state.ms.us/busserv/corp/soskb/csearch.asp>] which should be the same as you applied for at the Mississippi State Board of Contractors [<http://www.msdoc.us/Search2.CFM>]
 - D. **Certificate of Responsibility Number(s):** The Certificate of Responsibility Number(s) appearing on the Proposal Form should be the same number appearing in the current Mississippi State Board of Contractors Roster.
- 2.08 **BID SECURITY:** The Bid Security shall be in the form of a Bid Bond, or a Certified Check:
- A. **Bid Bond:** The Bidder may submit a Bid Bond by a Surety licensed in Mississippi in the amount of five percent (5%) of the base bid. The Bid Bond shall be duly executed by the Bidder, the Surety and a Mississippi resident agent. (No standard form is required for the Bid Bond.)
 - B. **Certified Check:** The Bidder may submit a certified check made out to the *Bureau of Building, Grounds and Real Property Management* in the amount of five percent (5%) of the base bid. All checks received from Bidders will be returned upon request, unless a Bidder is one (1) of the three (3) apparent low Bidders. The three (3) apparent low Bidder's checks will be held for forty-five (45) days, unless a Contract is awarded and executed in less time.

2.09 **POWER OF ATTORNEY:** Each bid security must be accompanied by an appropriate Power of Attorney. No Power of Attorney is necessary with a certified check.

PART 3 - SUBMITTING THE PROPOSAL FORM

3.01 **SUBMITTAL:** A bid must be delivered to the address indicated on the Advertisement for Bids prior to the time and date stated. Only one original of Bid Proposal shall be submitted which should be sealed in an opaque envelope marked, mailed or hand-delivered as follows: (beginning 1/1/09 and for a reasonable time period, a duplicate copy will not disqualify your bid, but the second copy, without comparison, will be destroyed in the bid opening, not read aloud nor used thereafter, in order to prevent inadvertent differences in the duplicate forms): (also see 600.42)

<p><i>(In upper left hand corner)</i></p> <p>Name of Firm (complete spelling of bidder's name and address – exact as recorded at the Secretary of State which should be the same as you applied for at the Mississippi State Board of Contractors – see 2.07, 3.01, 5.01)</p> <p style="text-align: right;"><i>(Bid shall be addressed and delivered to)</i> Bureau of Building, Grounds and Real Property Management 501 North West Street, Suite 1401B [Woolfolk Building] Jackson, Mississippi 39201</p> <p><i>(In lower left hand corner)</i></p> <p>Bid for Project # _____ Title _____ Using Agency _____ Certificate of Responsibility # _____ (for over \$50,000.00) Under \$50,000.00 (add statement)</p>

If the Bid is mailed, the bid envelope shall be placed inside a second envelope to prevent inadvertent premature opening of the Proposal.

- 3.02 **MODIFICATION TO BID:** A bidder may modify the bid prior to the scheduled closing time indicated in the Advertisement for Bids in the following manner:
- A. **Notification on Envelope:** A modification may be written on the outside of the sealed envelope containing the bid.
 - B. **Facsimile:** A facsimile (fax) will not be acceptable.
- 3.03 **WITHDRAWAL OF BID:** Any bid may be withdrawn prior to the scheduled time for opening of bids. However, bids may not be withdrawn until forty-five (45) days after bid opening.

PART 4 - BID OPENING AND AWARD OF CONTRACT

- 4.01 **OPENING OF BIDS:** Bids will be publicly opened shortly after the time stated in the Advertisement for Bids. Bidder representatives are invited; however, attendance is not mandatory.
- 4.02 **IRREGULARITIES:** The omission of any information requested on the Proposal Form may be considered as an informality, or irregularity, by the awarding public body when in their opinion the omitted information does not alter the amounts contained in the submitted bid proposal, or place other Bidders at a disadvantage.
- 4.03 **PROTEST:** Any protest must be delivered in writing to the Owner within twenty-four (24) hours after the bid opening.
- 4.04 **ERRORS:** Any claim of error and request for release from bid must be delivered in writing to the Owner within twenty-four (24) hours after the bid opening. The Bidder shall provide sufficient documentation with the written request clearly proving an error was made.

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- 4.05 **AWARD OF CONTRACT:** The Owner reserves the right to reject any, or all bids. A Contract will be awarded on the basis of the low base bid, or low combination of base bid and those alternates selected by the Owner in any order determined to be in the best interest of the Using Agency and which produces a total within available funds.
- 4.06 **FAILURE TO ENTER INTO A CONTRACT:** The Bidder shall forfeit the Bid Security to the Owner as liquidated damages for failure, or refusal, to execute and deliver the Contract, Bond and Certificate of Insurance within ten (10) days after notice of the acceptance of the bid.
- 4.07 **SECURITY FOR FAITHFUL PERFORMANCE:** Simultaneously, with delivery of the executed Contract, the Contractor will furnish a Surety Bond, or Bonds, as security for faithful performance, the payment of all persons performing labor on the project, and furnishing materials in connection with this Contract. The Surety on such Bond, or Bonds, will be a duly authorized surety company satisfactory to the Owner and meeting all of the following requirements:
- A. Licensed at the time of award by the State of Mississippi's Commissioner of Insurance for the purpose of providing surety.
 - B. Listed at the time of award in the Department of the Treasury's **Federal Register** as a company holding certificates of authority as acceptable sureties on Federal Bonds, commonly referred to as the Treasury List.
 - C. All Bonds shall be executed on the form provided in the Project Manual under Section 00600 entitled *Contract Bond*.
 - D. All Bonds shall be countersigned by a Mississippi resident agent with the name and address typed, or lettered legibly.
 - E. All Bonds must be accompanied by an appropriate Power of Attorney.

PART 5 - BIDDER'S CHECKLIST

The following checklist is for the Bidder's assistance only. It is not inclusive and is **not a part of the bid documents**; therefore, this checklist should not be included with the Proposal Form when submitting a bid proposal.

5.01 **PROPOSAL FORM:** (only one original proposal form to be submitted) (also see 3.01 and 600.42 of Manual)
Base Bid

Write in the amount of the base bid in words and numbers. The written word shall govern.

Alternates

Write in each alternates amount in words and numbers. The written word shall govern.

Addenda

Acknowledge the receipt of each addendum by writing in the number of the addendum and the date received.

Acceptance

Proposal is signed by authorized person

Name of Business - complete spelling of bidder's name and address - exact as recorded at the Secretary of State
[<http://www.sos.state.ms.us/busserv/corp/soskb/csearch.asp>] which should be the same as you applied for at the Mississippi
State Board of Contractors [<http://www.msbc.us/Search2.CFM>] (see 2.07, 3.01, 5.01, proposal form)

Legal address of the business listed above (at SOS and Contractor's Board)

Correct Certificate of Responsibility Number(s) as it appears in the current Mississippi State Board of Contractors
Roster

Certificate of Responsibility Number(s)

Base Bid is under \$50,000 and no number is required

Base Bid is under \$50,000 and the statement "bid does not exceed \$50,000" is on the outside of the
sealed envelope

Base Bid is over \$50,000 and number is required

Joint Venture and *joint venture* number is required
or

Joint Venture participants' numbers are required

5.02 **BID SECURITY:**

Included Bid Bond

or

Included Certified Check

5.03 **POWER OF ATTORNEY:**

Included Power of Attorney

5.04 **NON-RESIDENT BIDDER:**

Attached a Copy of Non-Resident Bidder's Preference Law

or

Attached a Statement

5.05 **Sub-Contractors**

List your Mechanical and Electrical Contractor, along with their Certificate of Responsibility Number (if over
\$50,000.00) on the Proposal Form.

*** END OF SECTION ***

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4.

PROPOSAL FORM
SECTION 00300

To: Bureau of Building, Grounds and Real Property Management
501 North West Street, Suite 1401B [Woolfolk Building]
Jackson, Mississippi 39201

Re: Project # _____
Project Title _____
Location _____

I propose to complete all work in accordance with the Project Manual and Drawings within _____ consecutive calendar days for the sum of: (Professional must specify number of days)

BASE BID: (Write in the amount of the base bid in words and numbers. The written word shall govern.)

_____ Dollars (\$ _____)

ALTERNATES: (Write in the amount of all of the alternates in words and numbers. The written word shall govern.)

Alternate #1 () Adds () Deducts

Dollars (\$ _____)

Description _____

Alternate #2 () Adds () Deducts

Dollars (\$ _____)

Description _____

Alternate #3 () Adds () Deducts

Dollars (\$ _____)

Description _____

Alternate #4 () Adds () Deducts

Dollars (\$ _____)

Description _____

Alternate #5 () Adds () Deducts

Dollars (\$ _____)

Description _____

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ADDENDA ACKNOWLEDGMENT: (date below can be the date Addendum was issued OR the date Addendum was received by Bidder)

No. 1 Date _____ (#1 included in Bid Documents) No. _____ Date _____

No. _____ Date _____ No. _____ Date _____

↑Complete all lines including #1↑

ACCEPTANCE:

I certify that I am authorized to enter into a binding contract, if this Proposal is accepted.

Signature _____ Date _____

Name and Title _____

Name of Business _____

Complete spelling of bidder's name and address - exact as recorded at the Secretary of State

[<http://www.sos.state.ms.us/busserv/corp/soskb/csearch.asp>] which should be the same as you applied for at the Mississippi State Board of

Contractors [<http://www.msdoc.us/Search2.CFM>] (see 2.07, 3.01, 5.01)

Address _____

City/State/Zip Code _____

Phone _____ Fax _____ Email _____

■ Certificate of Responsibility Numbers(s):

■ Attach copy of Non-Resident Bidder's Preference Law (5.04 of Bidder's Checklist)

■ **Mechanical / Electrical Contractors:** Divisions 15 & 16

- (1) Complete the blanks below in some manner (even when Mechanical and/or Electrical are not part of the project) – either by inserting “none”, “performed by the General”, OR listing the actual contractors’ names and COR numbers.
- (2) If mechanical and/or electrical is to be performed by the General, the General’s COR number must support same.
- (3) COR number MUST be inserted if mechanical and/or electrical portion is over \$50,000.00 per Mississippi Code.

List the Mechanical Contractor on all bids in accordance with the above. List the Mechanical Contractor's Certificate of Responsibility Number if the mechanical portion is over \$50,000.00

List the Electrical Contractor on all bids in accordance with the above. List the Electrical Contractor's Certificate of Responsibility Number if the electrical portion is over \$50,000.00.

Mechanical Contractor: _____ Certificate of Responsibility No. _____

Electrical Contractor: _____ Certificate of Responsibility No. _____

↑Complete both lines

↑Complete both lines

■ Mississippi Department of Agriculture & Commerce
Bureau of Plant Industry

Landscape License Number _____ MS Code 69-19-1 – 69-19-15

↑Complete for prime landscaping projects

Division 0

5. and 6.

O. ROOF BOND

1. The Professional shall submit to the Owner the original Roof Bond and include all Close-out Documents.
2. The Bond will be in the name of the Bureau of Building, Grounds and Real Property Management acting on behalf of the State of Mississippi as the Owner.

ASBESTOS ABATEMENT POLICY

400.4 (amended April 2009 Scruggs to AG)

THE POLICY

Where Asbestos Containing Materials [ACM] must be removed, the following guidelines and procedures have been developed to manage this process:

ACM Guidelines

- * Asbestos Certification
- * Schedule
- * Asbestos Abatement Phases
- * Inspection/Sampling Testing Phase
- * Abatement Document Phase
- * Bidding Phase
- * Abatement Phase
- * Professional Consulting Services

A. ASBESTOS CERTIFICATION

1. The Professional is to secure the services of asbestos specialist(s) who possesses current *Project Designer* and/or *Project Inspector* certificate(s) issued by the Mississippi Department of Environmental Quality's Office of Pollution Control.

2. A copy of each Certificate will be attached to a comprehensive report submitted by the Professional to the Owner defining the ACM present, its type, location and approximate quantity.

3. If the Professional has an asbestos specialist on staff who possesses proper certification, the asbestos testing can be performed *in house*.

B. SCHEDULE

1. Upon execution of the *Standard Form of Agreement Between the Owner and the Professional*, the Professional will submit a *Schedule of Performance* for approval by the Bureau Staff. This *Schedule* will include allowances for time required by the Bureau and Using Agency for review and approval of the submissions. When the *Schedule* has been approved by the Bureau, it will not, except for reasonable cause, be exceeded by the Professional.

C. ASBESTOS ABATEMENT PHASES

1. Inspection/Sampling/Testing
2. Abatement Document
3. Bidding
4. Abatement

D. INSPECTION/SAMPLING/TESTING PHASE

1. The Professional will consult with the Owner to ascertain the applicable requirements of the Project.
2. The Professional shall perform a complete inspection of the Project to determine:
 - a. Types of Asbestos
 - b. Locations of Asbestos
 - c. Quantities of Asbestos
3. The Professional will secure the services of a testing laboratory qualified by the National Institute of Safety and Health [NIOSH] to conduct tests. Services should include:
 - a. Sample Collection
 - b. Analysis
 - c. Reporting
4. The Professional, if qualified as a NIOSH laboratory, may conduct the asbestos sampling, analysis and reporting.
5. The Owner will reimburse the Professional for the testing required by this phase.
6. Four (4) copies of the comprehensive written report will be submitted to the Owner. Documents should include:
 - a. Drawings
 - b. Testing Laboratory Reports
 - c. Cost Options
 - d. Owner's Options
7. The Professional will prepare and submit an estimate of the Project's total cost. The estimate should include:
 - a. Costs associated with removal of ACM
 - b. Costs associated with disposal of ACM
 - c. Replacement of any finishes or materials disturbed during the removal process
 - d. Testing
 - e. Monitoring
8. The Professional will show progress to date and confirm the remainder of the Schedule.
9. The Bureau must give written approval of the Inspection/Sampling/Testing Phase before the Professional proceeds with the next phase.

E. ABATEMENT DOCUMENT PHASE

1. The Professional will submit the following data required by the Attorney General's Special Counsel and mandated by Court Order.
 - a. Information is to be sent to:
 - (1) Attorney General's Office – State of Mississippi
Attention: Hon. Geoffrey Morgan, Chief of Staff or Ms. Melanie Webb, Executive Assistant
Post Office Box 220
Jackson, Mississippi 39205
 - b. Information to be included:
 - (1) Building(s) Affected:
 - (a) Name/Address/Building Number.
 - (b) Name and Address of Custodian of Blueprints, Floor Plans, Construction Specifications, Renovation Specifications, Abatement Proposals, Bids,

Section 400: Codes and Policies

-
- Contracts, Subcontracts and Specifications, and Documents pertaining to Plaintiff's Bulk and Air Sampling.
- (2) Description of asbestos containing products to be abated:
 - (a) Type(s) of Product
 - (b) Total square or linear footage of each product to be abated
 - (c) Specific location of each product to be abated within each building
 - (3) Description of other known asbestos containing products identified by Plaintiff as present in the building:
 - (a) Type(s) of Product
 - (b) Total square or linear footage of each product to be abated
 - (c) Specific location of each product to be abated within each building
 - (4) Description of Abatement Work:
 - (a) Action to be taken with respect to each Product and location
 - (b) Expected commencement date of abatement activities with respect to each Product and location
 - (c) Expected completion date of abatement activities with respect to each Product and location
 - (d) Name and address of abatement Contractor with respect to each Product and location
 - (e) Projected cost of abatement activities with respect to each Product and location
 - (5) Name(s) and Address(es) of Company performing abatement
 - (6) Name(s) and Address(es) of Professional(s) (i.e., Architect/Engineering firm and/or Mechanical Contractor)
 - (7) State of building occupancy during abatement period
 - (8) Sampling Protocol:
 - (a) Bid specifications should make provision for required sampling by the abatement testing lab firm or Contractor according to the following protocol. The Professional will incorporate the following into Testing Lab Services (Air Monitoring) on all State of Mississippi buildings (including Institution of Higher Learning buildings) Asbestos Abatement projects.
 - (b) The Testing Lab firm shall designate a technician qualified to make the samples required and the technician shall certify by his signature the sampling required below was performed:
 - i) After plasticizing has been approved by the Professional, take a sample of 10 to 20 grams (approximately the size of a package of cigarettes) from each type of ACM removed per floor. An additional sample is to be taken from each additional 10,000 sq. ft. of spray-on materials and each additional 1,000 linear feet of pipe insulation. The samples will be used by the Owner's separate lab to test for ACM constituent analysis and homogeneity throughout the building. Samples of *multi-layered ACM* shall be taken in a manner that will keep layers intact. These samples are to be treated as multiple product, therefore, *twice the amount is needed*, trying to keep the layers intact.
 - ii) If a wetting application is necessary for removing samples, it is suggested that no additives be added to the water. If additives are used, a description or list of the additives should be supplied with each sample.
 - iii) Representative samples of floor tile/mastic shall consist of one (1) whole tile of each design, color, pattern and/or distinguishing feature of the

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- resilient floor tile. Samples should be removed from an area which is least exposed to light.
- iv) Samples of all other materials, i.e., roofing felt, etc., shall be of one (1) square foot in size.
 - v) All samples shall be packaged in proper ACM containers furnished by the Air Monitoring Lab. Containers shall be identified by the Bureau of Building Project #, Institution/Agency Name, Building Name, sample's removal location, type of material, sample number, person and firm taking sample, and date of sampling.
 - vi) The Testing Lab shall deliver samples by Certified Mail (Return Receipt Requested) to the following location:
 - a) Spray-on/Plaster Samples and Pipe/Boiler/Floor/Tile & Mastic/Other Samples:
Micro-Methods
6500 Sunplex Drive
Ocean Springs, MS 39564
 - vii) Send copy of the lab transmittal letter to the name and address as shown in 400.4.E.1.a.(1) above.
 - viii) The Owner's Representative will verify this has been accomplished prior to the issuance of Final Payment.
- (9) The Owner will prepare the *Advertisement for Bids* and notify the letter to the name and address as shown in 400.4.E.1.a.(1) above. *No asbestos removal may take place until 60 days after the Notice of Advertisement for Bids has been sent unless approved by the letter to the name as shown in 400.4.E.1.a.(1) above.*
- (10) The Professional will provide updates to the Owner and the letter to the name and address as shown in 400.4.E.1.a.(1) above. Updates will include changes of scope during planning and at the time of award, selection of alternates, and/or change orders.
2. The Professional will prepare and submit four (4) copies of Working drawings and specifications for approval. Two (2) copies will be delivered to the Bureau and two (2) copies will be delivered to the Using Agency. The drawings and specifications should detail and prescribe:
- a. The Work to be accomplished.
 - b. Protective measures in accordance with EPA guidelines.
 - c. Procedures for shutting down mechanical and electrical systems.
 - d. Phasing of Work, if required.
 - e. Outlining responsibilities for cleaning.
 - f. Outlining responsibilities for removing loose equipment.
3. After receiving a reviewed copy of the Abatement Documents from the Owner, the Professional will review and revise the documents. When the final revised copies are ready for distribution two (2) copies will be given to the Owner and two (2) copies to the Using Agency prior to release of documents for bids.
4. The Professional will provide complete sets of plans, specifications, and other bidding documents for bidding purposes.
- a. The Professional will be reimbursed for printing the bid documents by the Owner, with cost approval prior to printing.
 - b. Costs of all plans and specifications, other than for bidding, will be at the Professional's expense.

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5. The Professional will prepare and submit to the Owner a detailed construction cost analysis based on a quantity survey. The estimate will show an escalation projected from the date of the estimate to the projected bid date.
 6. The Professional will agree that approval of the drawings and specifications by any person, body, or agency will not relieve him of the responsibility for the adequacy, fitness, suitability, correctness of design, and designing the Work in accordance with sound and accepted practices and in compliance with prevailing building codes, federal and state laws and regulations regarding asbestos abatement.

F. BIDDING PHASE

1. Following the Owner's approval of the Abatement Document Phase, the Professional will assist the Owner in:
 - a. Obtaining bids
 - b. Awarding a Contract
 - c. Preparing Construction Contracts
2. The Professional will attend the bid opening and furnish a bid tabulation sheet in accordance with the Bureau's format. [See **Appendix 400.**]
3. Immediately after receipt of bids, the Professional will submit to the Owner a certified tabulation of all bids received accompanied by a recommendation as to the award of Contract.
4. Following the award of Contract, the Professional will prepare four (4) copies of updated construction documents (specifications) and four (4) copies of reduced plans. Each copy will be marked *OFFICIAL CONTRACT DOCUMENTS* and will include:
 - a. Executed Bid Proposal Form (Photocopy is acceptable)
 - b. Agreement Form (With original signatures)
 - c. Contract Bond (With original signatures)
 - d. Power of Attorney (No riders)
 - e. Insurance Certificates (Completed with no alterations)
 - f. Bulletins, addenda, and supplemental drawings
5. Reduced copies will be distributed as follows:
 - a. Owner - two (2) copies.
 - b. Contractor - one (1) copy.
 - c. Professional - one (1) copy.
 - d. Owner's Representative - one (1) copy.
6. The Professional will provide the Attorney General's Special Counsel any information required after the award of Contract.

G. ABATEMENT PHASE

1. The Professional's relationship to the General Contractor is outlined in the General Conditions of the Contract between the Owner and the Contractor and is modified by any *Supplementary Conditions*.
2. The Professional will perform the following services during the Construction Phase:
 - a. Complete administration of all construction Contracts
 - b. Issue certificates for payment
 - c. Examine and approve shop drawings and correct shop drawings when necessary for conformance with the design intent
 - d. Make revisions, corrections, or clarifications in the Contract Documents by bulletins or

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